

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 October 2014

Public Authority: Department for Transport
Address: Great Minster House
33 Horseferry Road
London SW1P 4DR

Complainant: Peter Silverman
Address: 20 Kingsend
Ruislip HA4 7DA

Decision (including any steps ordered)

1. The complainant requested information about a bespoke analysis of national highways maintenance.
2. The Commissioner's decision is that the Department for Transport has breached section 1(1) and section 10(1) of the FOIA as it did not confirm whether or not it held the requested information, or respond to the request within the timescale for compliance.
3. However, the Department for Transport has now responded, and provided the requested information, and the Commissioner does not therefore require it to take any further steps.

Request and response

4. On 23 June 2014, the complainant wrote to the Department for Transport (DfT) and requested information in the following terms:

"Please refer to page 7 section 11 of the Summary of the National Audit Office's report dated 1th December 2011 entitled "Reducing costs in the Department for Transport" it can be accessed via this link: <http://www.nao.org.uk/wp-content/uploads...>

It states that "The Department commissioned a bespoke analysis of the relative benefits and costs of national highways maintenance" Please provide me with an electronic, e.g pdf, copy of this analysis."

5. The DfT provided a response on 22 July. It referred to a report and said that a final version of this report had not been published.
6. The complainant was not satisfied as it appeared to them that the report that the DfT referred to and the analysis they had requested were two separate documents. The complainant requested an internal review on 31 July.
7. On the advice of the Commissioner, the complainant allowed time for the DfT to provide a review, and one was provided on 19 September. The DfT accepted that its response of 22 July had not addressed the complainant's specific request, and that it had not confirmed whether it held the information requested. The DfT has now provided the complainant with information that did address their request.

Scope of the case

8. The complainant contacted the Commissioner on 1 August to complain about the DfT's failure to confirm whether or not it held the information they had requested and its late response to their request. They asked the Commissioner to issue a decision notice on the case.

Reasons for decision

9. Section 1(1) of the FOIA provides that any person making a request for information to a public authority is entitled:

(a) to be informed in writing by the public authority whether it holds the information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him".
10. Section 10(1) of the FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
11. In this case the DfT failed to respond within the 20 working day timescale and therefore has breached section 10(1) in relation to the handling of this request.

Right of appeal

12. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals
PO Box 9300
LEICESTER
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

13. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
14. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Pamela Clements
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF