



**IN THE FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER (INFORMATION RIGHTS)**

EA/2013/0274

JOHN BURRELL

Appellant

And

THE INFORMATION COMMISSIONER

Respondent

And

DEPARTMENT FOR THE ENVIRONMENT FOOD & RURAL AFFAIRS

Second Respondent

Hearing: Held on 2 May 2014 at Field House.
Before Steve Shaw, Nigel Watson and Judge Taylor

Decision: The appeal is unanimously dismissed.

Reasons

1. The Appellant requested information from the Second Respondent ('Defra') on 5 May 2013. Defra responded on the twentieth working day following receipt of the request. The Respondent ('ICO') found that Defra complied 'promptly' within the meaning of s10(1) Freedom of Information Act 2000 ('FOIA'). (See *Decision Notice Ref. FS505818*). The Appellant appeals claiming that as Defra delayed in responding, it did not comply promptly.
2. Our task is to consider whether the decision made by the ICO is in accordance with the law or whether any discretion it exercised should have been exercised differently. The issue before us is restricted solely to whether Defra responded 'promptly' in accordance with s10(1) FOIA, which states:
*'10.(1) Subject to subsections (2) and (3), 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.'* (Emphasis added).
3. We have read all submissions and papers received from the parties, and do not consider it necessary to repeat them here. It is suffice to state that Defra has explained that it decided to wait before responding to optimise the chances of it being able to give as full an answer as would be possible within the statutory time limit. The Appellant disputes this and claims Defra was motivated to delay for other reasons.
4. On the basis of the information before us, we do not find that we have any compelling evidence to accept what the Appellant argues, and we find Defra's arguments more compelling. In any event, whilst there may be rare times when it is plainly evident within the factual context that an authority has not complied promptly even if done so within twenty working days, perhaps because the request might be so self-evidently pressing and important, on the facts before us, we do not consider this to be such a case.
5. We unanimously dismiss the appeal.

Judge Taylor, 8 May 2014