



**First-tier Tribunal  
(General Regulatory Chamber)  
Information Rights**

**Appeal Reference: EA/2017/0242**

**ON APPEAL FROM:**

**The Information Commissioner's Decision Notice No: FS50657087**

**Dated: 11 September 2017**

**Date of Hearing: 22 March 2018**

**Before  
JUDGE ROBERT GOOD**

**Between  
SIMON PRICE**

**Appellant**

**and  
THE INFORMATION COMMISSIONER**

**Respondent**

**Subject Matter:**

Freedom of Information Act 2000 (FOIA)

Section 1(1) (Information held)

## DECISION OF THE FIRST-TIER TRIBUNAL

For the reasons set out below the Tribunal dismisses the appeal.

### REASONS FOR DECISION

#### **Factual background**

1. The appellant, Mr Simon Price requested information concerning the disparity of BT call charges from the adult estate as compared to Young Offenders Institutions.
2. Mr Price applied to the Ministry of Justice (MoJ), under FOIA, on 26 May 2016 for information relating to telephone call charges from prisons.
3. The MoJ provided a response on 10 October 2016, outside the time limits set out in FOIA. Mr Price was dissatisfied by the response and submitted an internal review at which time he provided a more detailed request.
4. The MoJ response was that it did not hold the requested information and that the service provider was British Telecom who were responsible for prison telephone charges.
5. Mr Price complained to the Information Commissioner, who investigated. Following requests made by the Information Commissioner, the MoJ provided minutes and committee papers (pp61-63) which set out the agreement reached with BT to extend the contract prior to the commencement of a new arrangement and that during this extension period BT would agree to reduce charges by a small amount for the adult estate and by 50% for calls from Young Offender Institutions on four sites.

6. The Information Commissioner was satisfied that this disclosure met the request made by Mr Price.
7. Mr Price appealed stating that he considered there has not been full disclosure because the MoJ would not allow a private contractor to set the rates for something as important to prisoner as telephone calls.
8. The Information Commissioner's response is that she has obtained what information is available and that the different charging rates arose as a bi-product of wider negotiations. She accepted that the few references to this decision in the documents disclosed are because it was not the primary focus of the negotiations. The documents disclosed support this. The Information Commissioner concluded that it is likely there is no other recorded information than that which has been disclosed.
9. It was decided that the nature of this appeal made it suitable to be heard by a Judge, sitting alone.
10. This was the third of Mr Price's appeals to be heard on 22 March 2017. Because of this, at the conclusion of the second hearing, the Judge suggested that there should be a break for an hour and a half before the start of this hearing. Mr Price wanted to continue because he did not have much to add to his skeleton argument. The Tribunal agreed to proceed with hearing this appeal.
11. The Information Commissioner had indicated that she considered that this appeal could be dealt with on the papers. No-one representing the Information Commissioner attended.
12. The decision was reserved.

## **Request, decision notice and appeal**

13. On 26 May 2016 Mr Price made a request under FOIA in the following terms:

- a. Is there data readily available that show the expenditure and profit made from the telephones installed for the use of prisoners at HMP Wakefield?
- b. What is the cost of telephone calls made from such telephones compared to the average/normal cost of landline telephone calls?
- c. How many telephones are required to be installed per prisoner?
- d. Is there a minimum amount of expenditure required per telephone?
- e. Whose contractual responsibility is it to ensure the cleanliness of the handsets: BT or NOMS?
- f. The MoJ is responsible for HM Courts and Tribunals where almost all are switchboard enabled. What steps are the MoJ taking to ensure that the Estate Cleared Numbers list is switchboard enabled?

14. In reply the MoJ provided details of the cost of telephone calls across all of the prison estate. In doing so, it confirmed a discrepancy in the call charges between the adult estate and Young Offender Institutions.

15. Mr Price sought an internal review on 17 October 2017. In this review Mr Price sought the following information:

- a. Please provide me with all recorded data relating to the decision to apply such differential rates and the underlying rationale for the decision so to do. Did the decision maker take into account the fact that adult male prisoners also have parents and siblings with whom they need to maintain contact?

- b. Is there data readily available that shows the expenditure and profit made from the telephones installed for the use of prisoners at HMP Wakefield?
16. Further information was provided following the internal review, but not concerning the decision to charge differential rates. The MoJ's response was that "there are no specific information regarding the underlying rationale for the decision. It is understood that this would have formed part of the wider contract negotiations" (p34).
17. Following enquiries made by the Information Commissioner the documents at pp61-63 were disclosed, which satisfied her that the information requested had been disclosed.
18. Mr Price appeals to this Tribunal because he believes that this cannot be the extent of disclosure.

## **Conclusions**

19. Mr Price has sought information under FOIA. From the papers and hearing Mr Price's evidence and submissions, he finds it difficult to believe that such an important decision as to the cost of telephone calls for prisoners could be decided with such little paperwork. However, he accepts that he is not in a position to show that there is further information not disclosed.
20. The Information Commissioner agreed with Mr Price that it was likely there was some paperwork. Having conducted an investigation, the MoJ has provided information. There is nothing in the appeal bundle which causes the Tribunal to doubt the Commissioner's conclusion that the MoJ has disclosed the information requested in relation to this policy. The price differentiation appears to have come about during negotiations which involved an extension

of the existing contract and that allowed for a reduction in charges during this period. It appears that BT were willing to make greater reductions for the four Youth Offenders Institutions and this was accepted.

21. The Tribunal accepts the Information Commissioner's opinion that disclosure has been made. The Tribunal upholds the Commissioner's decision and dismisses the appeal.

Signed: R Good  
Judge of the First-tier Tribunal  
Date: 3 April 2018