

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 September 2011

Public Authority: Ministry of Justice

Address: 102 Petty France
London
SW1H 9AJ

Decision (including any steps ordered)

1. The complainant requested information relating to where and when five medium scale handlers of stolen bikes were due to appear in court in the Cambridgeshire area.
2. The Commissioner's decision is that the Ministry of Justice (MOJ) does not hold the requested information.

Request and response

3. On 14 December 2010, the complainant wrote to the MOJ and requested information in the following terms:

"Cambridgeshire Police told a meeting of Cambridge's Community Safety Partnership this morning that they have caught and bailed five 'medium scale handlers' who have been selling 20-30 stolen bikes per week online.

Could you please let me know when and where these individuals will appear in court."

4. The MOJ responded on 15 December 2010. It stated that the requested information was not available.
5. The complainant requested an internal review. However, the MOJ explained that the initial response was not made under FOIA but was a 'business as usual response'. Therefore, The MOJ stated it could not undertake an internal review of its decision. However, the MOJ did

revisit its handling of the request on 14 January 2011 and the Commissioner accepts this to be the result of an internal review. The MOJ stated that the requested information could not be traced by the courts in question and may not even exist.

Scope of the case

6. The complainant contacted the Commissioner to complain about the way his request for information had been handled. He was dissatisfied with the fact that the MOJ had not dealt with his request for information under FOIA to begin with and that the MOJ had stated that the information was not held.
7. The Commissioner considers that the complainant's correspondence of 14 December 2010 did constitute a valid request for information under section 8 of FOIA as it was in writing, stated the name of the applicant and an address for correspondence, and described the information requested. Therefore, the Commissioner has investigated whether the MOJ's response that the information was not held was correct under FOIA.

Reasons for decision

8. Section 1 of FOIA states 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 information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

9. In scenarios where there is some dispute about the amount of information located by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities. In other words, in order to determine such complaints the Commissioner must decide, on the balance of probabilities, whether a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
10. In correspondence to the Commissioner, the MOJ explained that it considered that the requested information was not held, as the courts

had been unable to search for it due to the fact that the complainant had not provided the relevant defendants' details. The MOJ also clarified that the information would only have been held by the courts if the defendants had been bailed to attend a court hearing. If this was the case, had the complainant provided the defendants' names the courts should have been able to advise the complainant of the court hearing date and place. However, the MOJ stated:

"...the defendants may have been on police bail with no hearing date set until the outcome of the investigations, the court may not have been able to assist further as the details would not have yet been entered onto the LIBRA system."

11. During the investigation, the complainant provided the Commissioner with links to three newspaper articles concerning bicycle theft in the Cambridge area. The first article said that three men had been bailed to return to a police station in September 2010. The second was a general article postdating the request published in April 2011 about a man having pleaded guilty in October 2010 and youngsters being due to appear in court in February 2011. The third article also noted that a man was due to be questioned in a police station in February 2011.
12. Although the Commissioner notes that these articles support the fact that bicycle theft in the Cambridge area had been reported to or investigated by the police, he does not consider that the articles either provide any further evidence that could help the courts search for the requested information or support the fact that the local courts would hold the information relating to any hearing dates and places at the time of the request. The links provided by the complainant moreover appeared to show that people were released on police bail pending further questioning and therefore support the argument that the courts would not hold any information regarding court hearings.
13. The Commissioner made enquiries to the MOJ regarding how information was recorded and searched for on the LIBRA system used by the magistrates courts identified in the MOJ's earlier response to the ICO. The MOJ responded stating:

"...the LIBRA system allows court staff to locate various information regarding court cases. There are several hundred different LIBRA Application functions that are divided into groups in order to assist members of court staff to navigate through the applications and print various documents...the staff that use the system will only see the functions they are authorised to use."

14. The MOJ explained what type of information was recorded on the LIBRA system. This included a diary function for planning and managing future adjournments, hearings, cases and courtroom resources; criminal case

management; general account administration including cash accounting, enforcement and fixed penalties; general maintenance of court cases; family pre and post court case management; and system management for purposes such as reference data and statistics. The MOJ stated that *"...all Magistrates Courts' cases are listed and managed, adjudications are recorded on the system"*.

15. Regarding the searches that can be carried out on the LIBRA system, the MOJ informed the Commissioner that:

"cases can be searched for if basic information regarding the case/defendant has been provided. The more information provided to the court, the easier it is to find the specific case and case details".

It confirmed that the search screen critical fields used to conduct a search on the LIBRA system were: case number, unique reference number, arrest/summons number, surname and date of birth (if possible).

16. The Commissioner understands that none of the relevant details listed above were provided to the courts by the complainant or were indeed known to him. Therefore, the MOJ was unable to conduct an accurate search for the requested information. Moreover, as it remained unclear as to whether the defendants had been released on court or police bail the MOJ could not confirm that information relating to the request was held.
17. It appears likely to the Commissioner that the defendants were released on police bail owing to the wording of the request (information provided by Cambridgeshire Police was used as a basis for the request) and the newspaper links provided by the complainant. Therefore, he considers that on the balance of probabilities the requested information was not held by the MOJ.

Right of appeal

18. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

19. 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.
20. 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

**Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**