

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 October 2012

Public Authority: Home Office
Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps)

1. The complainant requested information about a murder from 1987. The Information Commissioner's decision is that the public authority did not deal with the request for information in accordance with the FOIA as it failed to provide a response to the request within the statutory time frame of 20 working days. His decision is that the public authority should take the following steps to ensure compliance with the FOIA:
 - confirm or deny whether the requested information is held, and, if it is, either provide it or issue a valid refusal notice.
2. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Information Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

Background

3. The request can be followed on the "what do they know" ("WDTK") website¹.

¹http://www.whatdotheyknow.com/request/murder_of_daniel_morgan_judicial#comment-31754

Request and response

4. On 11 July 2012, the complainant wrote to the public authority and requested information about the murder of Daniel Morgan in 1987. He specifically asked:

"... In a letter to Daniel Morgan's family, acting Police Commissioner Tim Godwin said; "I am deeply sorry that the Metropolitan Police Service [MPS] has failed to bring to justice those responsible for the murder of Daniel. The MPS has accepted that police corruption in the original investigation was a significant factor in this failure"

Presently, Daniel Morgan's murderer remains at large. The corrupt police officers who protected the killer are presumably still in their post, or perhaps drawing their pensions.

Nick Herbert, the Police Minister, told MPs that "This is a matter of utmost seriousness ... It's important to consider what options are now available to identify and address issues of police corruption and bring those responsible to justice".

Please disclose to me:

- the date on which the Judicial Inquiry into this crime, and associated police corruption, shall commence*
- in the alternative, which independent police force will conduct an investigation into the murder, and which QC will oversee that investigation".*

5. The public authority responded on 19 July 2012. It stated:

"Thank you for your email of 11 July to the Home Office in regard to a judicial inquiry into the murder of Daniel Morgan. Your email has been forwarded to the Direct Communications Unit and I have been asked to reply.

The Home Secretary appreciates your concerns and continues seriously to consider all the options available to her to resolve this matter as quickly as possible."

It made no reference to the FOIA.

6. In response the complainant stated:

"With respect, I did not ask you to disclose the views of the Home Secretary in my request.

By law I am entitled to be told whether the information requested exists ('duty to confirm or deny').

Secondly if the information does exist, the right to receive the information (unless it is exempt).

...

If that information does not exist, please state that it does not exist.

If that information does exist, please disclose it as requested, as you are obliged to by law".

7. No further response has been provided by the public authority.

Scope of the case

8. On 22 August 2012 the complainant contacted the Information Commissioner to complain about the way his request for information had been handled. He asked for him to consider the lack of response under the terms of the FOIA.

Reasons for decision

Section 10 – time for compliance

9. The Information Commissioner considered whether the public authority has responded to the request in line with the provisions of the FOIA.
10. The public authority has neither responded appropriately to the complainant's request for information nor conducted an internal review of the response it did provide.
11. Section 10(1) of the FOIA states that on receipt of a request for information a public authority should respond to the applicant within 20 working days.

12. From the information provided to the Information Commissioner in this case it is evident that the public authority did not respond to the complainant, under the terms of the FOIA, within the statutory time frame.
13. The public authority is therefore required to provide a valid response under the terms of the FOIA. If it does hold information it should either provide this or issue a valid refusal notice explaining why it is exempt from disclosure.

Other matters

14. Although they do not form part of this decision notice the Information Commissioner wishes to highlight the following matters.
15. The Information Commissioner notes that the public authority did provide a timely response to the complainant. However, this was not under the terms of the FOIA as it merely informed him that his request had been passed to a different department. Whilst it could be viewed that the request actually consisted of two questions rather than requests for recorded information, the Information Commissioner notes that the request for internal review clearly shows that the complainant expected the public authority to confirm or deny whether any information is held. The Information Commissioner therefore considers it to be a valid request warranting consideration under the FOIA.

Right of appeal

16. 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,
Arnhem House,
31, Waterloo Way,
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

17. 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.
18. 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
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