

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 September 2013

Public Authority: Ministry of Justice

Address: 102 Petty France
London
SW1H 9AJ

Decision (including any steps ordered)

1. The complainant requested information about Berkshire Magistrates Court. He complained about the length of time taken by Her Majesty's Courts & Tribunals Service South East to respond to his request as it responded on the twentieth working day.
2. The Commissioner's decision is that Her Majesty's Courts & Tribunals Service has answered the request 'promptly' in accordance with section 10(1).
3. The Commissioner does not require any further steps to be taken.

Request and response

4. On 17 October 2012, the complainant submitted a request for information to Her Majesty's Courts & Tribunals Service (HMCTS) South East (which is an executive agency of the Ministry of Justice).
5. The HMCTS South East responded on 14 November 2012, the twentieth working day after receipt of the request.

Scope of the case

6. The complainant contacted the Commissioner on 8 March 2013 to complain that HMCTS South East had failed to provide him with information within the 20 working day time limit provided by FOIA.
7. The Commissioner notes that HMCTS South East responded to the complainant on the twentieth working day. He will therefore consider whether HMCTS South East has responded 'promptly' to the complainant for the purposes of section 10 of FOIA.

Reasons for decision

8. Section 10(1) of FOIA states that a public authority must comply with section 1(1) promptly and no later than 20 working days following receipt of the request¹.
9. HMCTS South East responded to the complainant on the twentieth working day, answering his questions. Therefore, it will be necessary to investigate HMCTS South East's actions in preparing its response to determine whether the response was provided 'promptly'.
10. The Commissioner asked HMCTS South East to explain why it had not responded to the complainant until the twentieth working day. HMCTS South East explained that the request had been received at a particularly busy time and that it was particularly complicated and consequently required the whole 20 days to complete in order to provide accurate information.
11. The Commissioner contacted HMCTS South East, explaining that he would need more information regarding how busy it had been on 17 October 2012 and why the request was considered to be particularly complicated. HMCTS South East clarified that between 17 October and 14 November 2012, it had dealt with and completed 21 separate information requests made up of FOIA requests, requests for internal reviews and subject access requests. It also explained that the team dealing with the requests consisted of two people.

¹ Section 1(1) 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 the information communicated to him.'

12. Furthermore, HMCTS South East explained that the request from the complainant contained nine fairly complicated questions; the difficulties in this case were compounded because the complainant submitted a number of requests that included multiple, often overlapping, questions. Each request made reference to earlier requests and it became difficult to pinpoint exactly what specific information he wanted. The nature of the questions meant that they required thorough investigation and consultation with both legal advisers and policy officials. Such consultations with third parties took time, but HMCTS South East answered the complainant's request as soon as it could.
13. The Commissioner notes that HMCTS South East has only got a very small team to deal with both FOIA and DPA requests. He also notes that for the 20 working day time period of 17 October to 14 November 2012 it received 21 requests for information made up of FOIA requests, subject access requests and requests for internal reviews.
14. Taking all of these factors into account, the Commissioner considers HMCTS South East's initial response was provided 'promptly'. He therefore considers that the HMCTS South East has not breached section 10(1).

Other matters

15. The complainant requested an internal review on 18 November 2012 and HMCTS South East responded on 27 December 2012.
16. Part VI of the section 45 Code of Practice makes it good practice for a public authority to have a procedure in place for dealing with complaints about its handling of requests for information. He also considers that the procedure should encourage a prompt determination of the complaint.
17. As he has made clear in his '*Good Practice Guidance No 5*', the Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by the FOIA, the Commissioner has decided that a reasonable time for completing an internal review is 20 working days from the date of the request for review.
18. The Commissioner notes that the internal review took 26 working days to carry out. HMCTS South East should ensure that it carries out internal reviews promptly.

Right of appeal

19. 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

20. 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.

21. 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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