

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 January 2015

Public Authority: Ministry of Justice
Address: 102 Petty France
London
SW1H 9AJ

Decision (including any steps ordered)

1. The complainant submitted a request for information relating to the provision of a specified book in prisons from the Ministry of Justice (the 'MOJ'). By the date of this notice, the MOJ has yet to provide a substantive response to this request.
2. The Commissioner's decision is that the MOJ breached section 10 of the FOIA in that it failed to provide a valid response to the request within 20 working days of receipt.
3. The Commissioner requires the MOJ to take the following steps to ensure compliance with the legislation:
 - issue a response to the request set out in paragraph 5
4. 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 Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 16 April 2014 the complainant wrote to the MOJ and requested information in the following terms:

"Further to Justice Secretary's comments in the Observer on 30 March, under the Freedom of Information Act 2000, I request the Ministry of Justice to provide me with the following information:

1. *All correspondence, including text messages, between NOMS officials, the Secretary of State, the Permanent Secretary and Special Advisors pertaining to the decision to allow the book 'Fifty Shades of Grey' to be stocked in the libraries of women's prisons*
2. *Correspondence, including text messages, between NOMS officials, the Secretary of State, the Permanent Secretary and Special Advisors discussing the availability of the novel 'Fifty Shades of Grey' in male prisons.*

I would prefer to receive this information electronically."

6. In the absence of a response, the complainant wrote again to the MOJ on 12 June 2014 and 20 August 2014 reminding it of the need to provide a response. He also requested an internal review on 8 September 2014. From the correspondence, it appears that the MOJ failed to acknowledge receipt of or to respond to any of these emails.
7. On 4 December 2014 the Commissioner wrote to the MOJ to query the apparent non-response.
8. The MOJ confirmed it had not responded and committed to providing an update but did not do so. The Commissioner contacted the MOJ again on 5 January 2015, which was acknowledged, and advised that it expected that a response may be ready for issue in January 2015.
9. The Commissioner contacted the complainant to update him. Given the significant delay in the MOJ's handling of this request, the complainant requested that a decision notice be issued ordering the MOJ to provide its response.
10. No substantive response to the request had been provided by the date of this notice.

Reasons for decision

11. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the information requested. The Commissioner considers that the request in this case fulfilled these criteria, and therefore constituted a valid request under the FOIA for recorded information.
12. Section 10(1) of the FOIA provides that 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. From the information provided

to the Commissioner it is evident that the MOJ did not respond to the complainant within the statutory timeframe in respect of this request.

Conclusion

13. The Commissioner's decision is that the MOJ did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the request within the statutory timeframe of 20 working days. At paragraph 2 above the MOJ is now required to respond to the request of 16 April 2014 in accordance with the FOIA.

Other matters

14. As well as finding above that the MOJ is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. This may form evidence in future enforcement action against the MOJ should evidence from other cases suggest that there are systemic issues within the MOJ that are causing delays.

Right of appeal

15. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

16. 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.
17. 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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