

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 January 2016

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 to the Ministry of Justice (the 'MOJ') relating to the numbers of prisoners released in error since 2013, together with associated details. 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 MOJ 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 10 September 2015 the complainant wrote to the MOJ and requested information in the following terms:

"Under the Freedom of Information Act, please can you provide me with information about the number of prisoners released from prisons

following administrative errors or other mistakes which led to them be released in error, since 2013.

Please could you also provide for each prisoner, details of the establishment the prisoner was released from, the crime the prisoner had been convicted of and number of days between release in error and subsequent return to custody."

6. In the absence of a response, the complainant wrote again to the MOJ on 9 and 14 October 2015 reminding it of the need to provide a response. On 28 October 2015, the MOJ apologised for the delay in responding which it said was due to the volume of requests it had received.
7. On 2 November 2015 the Commissioner wrote to the MOJ to query the apparent non-response. In the absence of any reply, the Commissioner wrote again on 16 October 2015, at which time the MOJ confirmed that a response had been drafted and was awaiting final clearance.
8. The Commissioner has contacted the MOJ again on three further occasions, but each time has been advised that the response is still in final clearance.
9. No substantive response to the request had been provided by the date of this notice.

Reasons for decision

10. 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.
11. 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

12. 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 10 September 2015 in accordance with the FOIA.

Other matters

13. 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

14. 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

15. 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.
16. 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

Carolyn Howes
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