

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 7 March 2016

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

#### Decision (including any steps ordered)

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1. The complainant submitted a request for information to the Ministry of Justice (the 'MOJ') for numbers of Regulation of Investigatory Powers Act ('RIPA') requests about prison staff. 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 sections 1 and 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

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5. On 9 December 2015 the complainant wrote to the MOJ and requested information in the following terms:

*"The individual number of RIPA requests made to the Ministry of Justice concerning prison staff per UK prison per month for each of the last two years up until this request is answered. To clarify, this*

*concerns all RIPA requests made to the MoJ concerning a member of staff, be they permanent or freelance staff or employees of a company under contract to the MoJ, such as Serco.*

*Please provide a break down as to which requests were granted and which were not and what part of RIPA the request was being made under e.g. whether the request was a section II request (requesting surveillance and the use of covert human intelligence) or section I request (partly concerning the acquisition of communications data) or referred to another section.*

*Where possible please provide the reason for RIPA requests. The Central Authority Bureau will collect some of this information.*

*Part II of RIPA refers to surveillance and the use of covert human intelligence sources. Under this part of RIPA, the MoJ can authorise activity. Chapter II of Part I of RIPA refers to the acquisition of communications data. The Regulation of Investigatory Powers (Communications Data) (Amendment) Order 2015, which came into force on 12/02/2015, removed the power to authorise the acquisition of communications data.*

*Please send me the data requested in the form of an Excel spreadsheet or as a csv file."*

6. Receipt of the request was acknowledged by the MOJ on 29 December 2015. In the absence of a response, the complainant wrote again to the MOJ on 14 and 21 January 2016, reminding it of the need to provide a response.
7. No substantive response to the request had been provided by the date of this notice.

## **Reasons for decision**

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8. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
9. 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.

10. 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*

11. In this case the MOJ has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days.
12. At paragraph 3 above the MOJ is now required to respond to the request of 9 December 2015 in accordance with the FOIA.

### **Other matters**

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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

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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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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** .....

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