

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 August 2016

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

Decision (including any steps ordered)

1. The complainant requested information about convictions and offences 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 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 under the FOIA by either complying with section 1(1) or issuing a valid refusal notice.
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 13 May 2016 the complainant wrote to the MOJ and requested information in the following terms:

"Under the Freedom of Information Act, please could you provide me with the following information, what was the highest number of previous convictions for each of the following offences held by an

individual convicted of that offence who was given a non-custodial sentence in 2015 and how many offences had they committed in total at the point for this same offence, broken down to regional level:

- *Burglary*
- *Drug offences*
- *Taking a vehicle without consent*
- *Rape*
- *Other sexual offences not including rape*
- *Robbery*
- *Violence Against the Person*
- *Taking indecent pictures of children*

Please could you also provide information about the offender in each region with the most previous convictions, for any offence (not just the ones listed above), who was given a non-custodial sentence in 2015. For each offender, please provide a breakdown of the convictions by offence type, with the number of times they have been sentenced for each offence and the number of times the disposal type has been immediate custody."

6. The MOJ did not respond to the request.

Scope of the case

7. The complainant contacted the Commissioner on 6 July 2016 to complain about the way her request for information had been handled.
8. The Commissioner contacted the MOJ on 2 August 2016 to query the non-response. The following day, the MOJ confirmed that the response was still being prepared and that it hoped to "*have sent a comprehensive response to [the complainant] later this month*".
9. No substantive response to the request had been provided by the date of this notice.

Reasons for decision

10. 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.

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. In this case the MOJ has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days. At paragraph 3 above the MOJ is now required to respond to the request of 13 May 2016 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

Carolyn Howes
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