

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 March 2017

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

Decision (including any steps ordered)

1. The complainant requested information from the Ministry of Justice (the 'MOJ') about sex offender treatment programmes. 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 15 September 2016 the complainant wrote to the MOJ and requested information in the following terms:

"I am writing to you under the Freedom of Information Act 2000 to request the following information for the relevant period of 2010 – present, broken down by year:

Q. Please provide copies on when and how to complete SARN reports.

Q. Please confirm average waiting times for SARN reports to be produced, both across the prison estate and at HMP Frankland in particular.

Q. What are your policies on when to carry out sex offender treatment programmes (SOTPs) and extended sexual offender treatment programmes (ESOTPs)? Please provide copies.

Q. What are your criteria for assessing whether an individual qualifies for ESOTP?

Q. How many ESOTP courses run every year, for HMP Frankland and Full Sutton respectively?

Q. How many prisoners subscribe to each of the ESOTP courses every year, for HMP Frankland and Full Sutton respectively?

Q. How many prisoners should be subscribed to each ESOTP course every year, for HMP Frankland and Full Sutton respectively? (ie. is there a minimum threshold as to course capacity)

Q. Are the ESOTP courses oversubscribed, for HMP Frankland and Full Sutton respectively? I.e. what was the waiting list?

Q. How often were scheduled ESOTP courses cancelled?

Q. What prisons run the ESOTP?"

6. The complainant sent a number of emails to chase up the outstanding response but the MOJ failed to reply.
7. To date, the MOJ has not responded to the request.

Scope of the case

8. The complainant contacted the Commissioner on 17 November 2016 to complain about the way his request for information had been handled.
9. The Commissioner contacted the MOJ on 30 January 2017 and 7 February 2017 to query the non-response; the MOJ replied on 8

February 2017 and said it was considering whether or not the requested information should be exempt.

10. The Commissioner wrote to the MOJ again on 20 February 2017 seeking an update; the MOJ replied on 22 February 2017 and indicated that its response would not be forthcoming imminently.
11. No substantive response to the request had been provided by the date of this notice.

Reasons for decision

12. 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.
13. 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.
14. 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

15. 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 15 September 2016 in accordance with the FOIA.

Other matters

16. 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

17. 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

18. 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.
19. 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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Wilmslow
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SK9 5AF