

## Freedom of Information Act 2000 (FOIA)

### Decision Notice

**Date:** 31 August 2017

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

#### Decision (including any steps ordered)

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1. The complainant has requested statistical information relating to segregation in prisons. Her Majesty's Prison and Probation Service, part of the Ministry of Justice (MoJ), has failed to respond to the request; therefore the Commissioner's decision is that the MoJ has failed to comply with section 10(1) of the FOIA.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Respond to the complainant's request: Firstly, confirm or deny that the requested information is held (or, if the public authority decides to refuse to confirm or deny that any of the requested information is held, then a refusal notice should be issued that complies with the requirements of section 17 of the FOIA).
  - Secondly, and subject to the above, if the information is held the public authority must either disclose the requested information or, if it wishes to withhold any information, issue a refusal notice in relation to the information it wishes to withhold and disclose the remainder.
3. 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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4. On 9 April 2017 the complainant made the following request for information to the National Offender Management Service, now called HM Prison and Probation Service:

*"I am contacting you in relation to the response provided to my FOI (IR-108374). After the outcome of an interview review the Ministry of Justice provided me with a breakdown for the top ten longest stays in segregation (22 hours + in cell) at the top ten largest prisons in England and Wales as of 8th September 2016.*

*I would like to request the same information with the data updated to what it was as of 1st January 2017."*

5. The MoJ issued holding responses on 16 May 2017, 26 May 2017 and 7 June 2017.

## Scope of the case

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6. The complainant contacted the Commissioner on 5 July 2017 to complain that he had not received a response to his request.
7. The Commissioner wrote to the MoJ on 9 August 2017 to request that it respond to the complainant's request. However the complainant did not receive any further response from the MoJ.

## Reasons for decision

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### Section 1: general right of access Section 10(1): time for compliance

8. Section 1(1)(a) of the FOIA requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
9. Section 10(1) requires that the public authority comply with section 1 promptly, and in any event no later than 20 working days after the date of receipt of the request.

10. Despite the Commissioner's intervention, the MoJ has failed to respond to the complainant's request. The MoJ has failed to confirm or deny that it holds the requested information, and has neither disclosed the requested information nor provided a valid refusal notice.
11. The Commissioner therefore finds the MoJ in breach of section 10(1) of the FOIA.

## Right of appeal

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12. 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 123 4504  
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)

13. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Tribunal website.
14. 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** .....

**Sarah O’Cathain**  
**Senior Case Officer**  
**Information Commissioner’s Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**