Freedom of Information Act 2000 (FOIA)

Decision notice

Date: **14 February 2019**

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

Decision (including any steps ordered)

1. The complainant submitted three separate requests for a range of information relating to Ministry of Justice (MOJ) employees, including changes to a particular role, resources, and training records.

2. The Commissioner's decision is that the MOJ has breached section 10(1) of the FOIA as it failed to provide a valid response to elements of the requests which fall under the FOIA within the statutory time frame of 20 working days.

3. The Commissioner requires the MOJ to take the following step to ensure compliance with the legislation.

    - The MOJ must issue substantive responses to the outstanding parts of the requests in accordance with its obligations under the FOIA.

4. The MOJ must take this step 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 27 March 2018, the complainant wrote to the MOJ and requested information in the following terms:

> *"please could you inform me of the number of staff in the Uxbridge Magistrates Court team that are being subjected to statements from management saying that their role can be done in less time that [sic] it is currently set at in FTE terms or that are being referred to Occupational Health regarding capability, given that we are all working for the same organisation."*

6. On 20 Jul 2018, the complainant wrote to the MOJ to chase a response to this request. The complainant also submitted a separate request for personal information under his subject access rights, and requested the following additional information:

> *"2) In the ET3 response form it is stated in point 10, that the roles in the Ealing, Harrow and Hillingdon cluster were notionally referred to as 2.5 FTE during the MAPPA review in 2015. This is simply not the case, the Consultation paper MA review Aug15v4 Final document makes no reference to this figure in a notional capacity, and nor has it ever been referenced as such, until the ET3 response was received*
>
> *Who provided this information that is referred to?*
>
> *Please could I be provided with documentation where it is formally states [sic] that the 2.5 FTE across the Ealing, Harrow and Hillingdon cluster was a notional figure.*
>
> *3) In the ET3 response form it is stated in point 17 that 'it is the case that the role was previously fulltime but following the Claimant's transfer much of the work previously assigned to the former employee was removed after his departure.'*
>
> *No MAPPA work was removed from the Hillingdon MAPPA role, prior to me joining Hillingdon MAPPA.*
>
> *Who provided this information that is referred to?*
>
> *What MAPPA duties were allegedly removed from the Hillingdon MAPPA role, when [name redacted] was moved to Ealing MAPPA and I was moved to Hillingdon MAPPA on 1st February 2016?*

What was the reason that these MAPPA duties were allegedly removed from the role?

Who made the decision to allegedly remove the MAPPA duties from the role?

4) In the ET3 response form it is stated in point 18 that 'In 2018 further swat analysis were conducted [sic] up until February and showed the following Ealing 0.69 FTE, Harrow 0.38 FTE and Hillingdon 0.43 FTE.

Please could I be provided with information, as to whether the roles at Harrow and Ealing are being reduced in FTE's regarding their working hours and pay? This is what has technically has [sic] happened to me, as the Hillingdon MAPPA role was kept at 1 FTE during the MAPPA review and has not been reduced since."

"6) In the ET3 response form it is stated in point 25 that 'Regrettably and whilst the respondent sympathises with the Claimant, it is a reality that resources are constrained.

As the MAPPA review of 2015 allocated a budget for 2.5 FTE across the cluster in Ealing, Harrow and Hillingdon and the Hillingdon MAPPA role was not reduced during the review and has not been reduced since and the budget of 2.5 FTE still exists across the cluster, please could I be advised as to how resources are constrained?"

7. The complainant submitted a further request for personal information on 20 July 2018, and he also requested information in the following terms:

"21) [content redacted]

Please could I be provided with HMPPS documentation where it states that a member of staff cannot have a face to face OH assessment if they request this and that they to have a telephone assessment?" [sic]

"23) I would like to receive information as to whether [names redacted] received training since joining the NPS, in relation to the Equality Act 2010 and if so, when was this training completed?

24) I would like to receive information as to how many grievances have been raised against [name redacted] in her capacity of SPO and [name redacted] in his capacity of ACO, since they started in these roles. Please provide the number of these and the dates that they were instigated.

25) I would like to receive information as to how many bullying and harassment claims have been brought against [name redacted] in her capacity of SPO, since she started in this roles [sic]. Please provide the number of these and the dates that they were instigated.

26) My personal data was breached by way of a copy of a sensitive document that I handed to [name redacted] at a meeting on 11-07-2017, afterwards being found face up on a table, in open view the Uxbridge Probation Office Staffroom?

Did [names redacted] complete information assurance training upon appointment with the Probation service, as is the norm?

Please provide me with information re the dates that they completed information assurance refresher training thereafter, prior to them attending the meeting on 11-07-2017 which resulted in a breach of my data?"

8. The MOJ responded on 21 July 2018, acknowledging receipt of the requests.

9. On 29 November 2018 the MOJ provided a partial response to one part of the complainant's third request, but did not respond to any of the additional points in this request.

10. On 18 December 2018 the MOJ responded to the complainant's second request, refusing to provide information under section 12(2) of the FOIA.

11. To date, the MOJ has not responded to the first request or the remaining points in the third request.

Scope of the case

12. The complainant made three groups of requests for information; he asked for them to be considered as both FOIA requests and subject access requests. The Commissioner has addressed only those parts of the requests which fall to be considered under the FOIA in this decision notice.

13. The complainant contacted the Commissioner on 16 October 2018 to complain about the MOJ's failure to respond to his information requests.

14. The Commissioner wrote to the MOJ on 14 November 2018, reminding it of its responsibilities and asking it to provide substantive responses to the complainant within 10 working days.

15. The MOJ responded to the Commissioner on 14 November 2018 stating that as the requests related to the complainant's personal information, it was handling the requests as subject access requests.

16. On 23 November 2018, the Commissioner wrote to the MOJ again and provided a breakdown of each request, explaining which aspects of the requests would need to be considered under the FOIA.

17. The MOJ wrote to the Commissioner on 26 November 2018 to request an extension of 10 working days to respond to the complainant, so it could ensure a correct response. The Commissioner agreed to the request but urged the MOJ to respond promptly, which the MOJ has not done.

18. The Commissioner considers the scope of the investigation is to determine whether the MOJ has complied with section 10(1) of the FOIA in relation to those elements of the request which are covered by the FOIA. The Commissioner considers that the remainder of the requested information has been sought under the complainant's subject access rights under the Data Protection Acts 1998 and 2018. She will consider these matters separately from the FOIA matters addressed in this decision notice.

Reasons for decision

19. Section 1(1) of the FOIA states that:

> *"Any person making a request for information to a public authority is entitled –*
>
> *(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
>
> *(b) if that is the case, to have that information communicated to him."*

20. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt."*

21. From the evidence provided to the Commissioner in this case, it is clear that the MOJ did not deal with the requests for information in accordance with the FOIA. The Commissioner finds that the MOJ has breached section 10(1) by failing to respond to the requests within 20 working days and it is now required to respond to remaining requests in accordance with the FOIA.

Right of appeal

22. 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

23. 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.

24. 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