

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 February 2019

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

Decision (including any steps ordered)

1. The complainant has requested information from the Ministry of Justice (MOJ) relating to its contract with Interserve for HMP Berwyn.
2. The Commissioner's decision is that the MOJ has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request 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 a substantive response to the request 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. Following a previous request, the complainant wrote to the MOJ on 25 October 2018 and requested information in the following terms:

"Under the Freedom of Information Act I would like to request the following documents regarding the contracts between MOJ and Interserve for HMP Berwyn.

- 1. The contract for Provision of Employment Positions for Prisoners at HMP Berwyn*

2. The contract for Provision of Interim Employment Positions for Prisoners at HMP Berwyn

For both those contracts, I would also like to request the following documentation:

3. Any Checkpoint Review Reports since the beginning of the contract

4. Any "Management Information" since the beginning of the contract

5. Any "Performance Reports" since the beginning of the contract

6. Any "Improvement Notices", "Improvement Actions" or "Improvement Plans" since the beginning of the contract

7. Any "Rectification Notices", or "Rectification Plans" since the beginning of the contract

8. Any "Outstanding Issues Notices" issues since the beginning of the contract

9. Any "Consultation Notices" since the beginning of the contract

Unless included in the above, please also provide for EACH of these two contracts:

10. the specification for the provision for employment at HMP Berwyn, i.e. how many prisoners per month are due to be served by the contracts (since the beginning of the contract, broken down by month)

11. how many prisoners were actually served by the contracts (since the beginning of the contract, broken down by month)".

6. The complainant has written to the MOJ on a number of occasions since to request an update however, to date, the MOJ has failed to issue a proper response.

Scope of the case

7. The complainant contacted the Commissioner on 7 December 2018 to complain about the MOJ's failure to respond to her information request.

8. On 4 January 2019 the Commissioner wrote to the MOJ, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. Despite the Commissioner's intervention the MOJ has failed to respond to the complainant.

Reasons for decision

10. 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.*

11. 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.*"
12. From the evidence provided to the Commissioner in this case, it is clear that the MOJ did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the MOJ has breached section 10(1) by failing to respond to the request in accordance with the FOIA.

Right of appeal

13. 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

14. 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.
15. 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
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF