

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 April 2016

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

Decision (including any steps ordered)

1. The complainant requested information, against a background of the 'Nolan Principles'¹, for details of officers responsible for handling Subject Access and FOIA Requests. The Ministry of Justice (the 'MOJ') did not respond within the statutory 20 working days prescribed by FOIA. The complainant requested that a decision notice be issued by the Commissioner recording the delay.
2. The Commissioner's decision is that the MOJ has breached section 10(1) of FOIA by issuing its response late, but as a substantive response has been provided to the complainant, he does not require any remedial steps to be taken.

Request and response

3. On 11 August 2015, the complainant wrote to the MOJ and requested information as set out at Annex A attached to this decision notice.
4. The MOJ responded on 16 September 2015, stating that it did not hold some of the requested information in that it does not have its own

¹ <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

version of the Nolan Principles. It also asked for clarification for part of the request.

5. The complainant requested an internal review on 18 September 2015, which was not responded to by the MOJ until 23 November 2015. The internal review upheld the MOJ's original decision. The delay is referenced in 'Other matters'.

Scope of the case

6. On 3 February 2016 the complainant wrote to the Commissioner to request that he issue a decision notice to record the delay. He also raised concerns which are not section 50 issues which are covered under 'Other matters'.
7. The scope of the Commissioner's investigation was to consider whether there has been a breach of section 10(1) by the MOJ in its handling of the complainant's request.

Reasons for decision

8. Section 10(1) of the FOIA provides:

"...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."

9. The request was received by the MOJ on 14 August 2015, but it did not respond until 16 September 2015. This falls outside the statutory 20 working days' time limit allowed.
10. The Commissioner does not need to serve a decision notice in an individual case in order to use that case as evidence for future enforcement action; however, should a complainant request the Commissioner to issue a decision notice for a specific complaint he will do so.
11. The Commissioner finds that the MOJ breached section 10(1) of the FOIA in this case and has ensured that the details of the case have been recorded for future monitoring purposes.

Other matters

12. Part VI of the section 45 Code of Practice makes it desirable practice that a public authority should have a procedure in place for dealing with complaints about its handling of requests for information, and that the procedure should encourage a prompt determination of the complaint. As he has made clear in his *'Good Practice Guidance No 5'*, the Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by FOIA, the Commissioner has decided that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days. The Commissioner is concerned that in this case, it took 47 working days for an internal review to be completed, despite the publication of his guidance on the matter.
13. The complainant advised the Commissioner that he had initially requested an internal review on 17 September 2015 because he had not had a response, but had sent in a further internal review request on 18 September 2015. He did so following an issue with the mis-sending of the response which had been incorrectly addressed and delivered to a neighbour, who posted the response through the complainant's door on 17 September 2015. Although, the incorrect addressing of the response is not a section 50 FOIA matter, the Commissioner has considered this under the Data Protection Act 1998 ('DPA'), and has found it likely that a breach of principle 7 (security) occurred. He has made a record of this and written to the MOJ separately to advise it of the DPA breach.

Right of appeal

14. 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

15. 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.
16. 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

Annex A

The complainant's complete request made on 11 August 2015 is copied below, having listed 'The 7 Principles of Public life' otherwise known as the 'Nolan Principles':

"1. As I have above provided a brief explanation of my understanding of the 'Nolan Principles' I firstly ask the MofJ to provide me with a copy of the Ministry's own version of the 'Nolan Principles' that the Ministry's staff members and employees are expected, required, contractually and/or otherwise obligated to comply with.

2. A. The name(s) of whomever held the post of director/head of the department or office within the Ministry of Justice (the MofJ) that in whole, or as part of their contract of employment was/is expected, required contractually or otherwise obligated to oversee the MofJ handling of Data Protection Subject Access Requests (SAR) submitted to the MofJ by members of the public/data subjects at the following points/dates in time:

- i. On and after 22 September 2014.*
- ii. On and after 07 November 2014.*
- iii. The name of whom it is that at present currently holds the post/position within the MofJ.*
- iv. Copies, if they've made one, of each of their (i, ii and iii above) individual declaration(s) of interests for the following fiscal years*
 - 2013-14*
 - 2014-15*
 - 2015 – current*
- v. Information about the salary, remuneration, bonuses and other benefits/perks etc (travel cost, healthcare etc.) paid or provided to them (i, ii and iii above) during the following fiscal years:*
 - 2013-14*
 - 2014-15*
 - 2015 – current*

2. B. The name(s) of whomever held the post of director/head of the department or office within the Ministry of Justice (the MofJ) that in

whole, or as part of their contract of employment was/is expected, required contractually or otherwise obligated to deal with and/or respond to complaints and associated concerns raised by staff of the Information Commissioner's Office (ICO) with the MofJ (in relation to the MofJ failure to comply with and/or responded to Data Protection Act - Subject Access Requests, chase up letters etc.) at the following points/dates in time:

- i. On and after 01 December 2014.*
- ii. On and after 11 May 2015.*
- iii. The name of whom it is that at present currently holds the post/position within the MofJ.*
- iv. Copies, if they've made one, of each of their (i, ii and iii above) individual declaration(s) of interests for the following fiscal years*
 - 2013-14*
 - 2014-15*
 - 2015 – current*
- v. Information about the salary, remuneration, bonuses and other benefits/perks etc (travel cost, healthcare etc.) paid or provided to them (i, ii and iii above) during the following fiscal years:*
 - 2013-14*
 - 2014-15*
 - 2015 – current*

3. A. The name(s) of whomever held the post of director/head of the department or office within the Ministry of Justice that in whole, or as part of their contract of employment was/is to [sic] required to oversee the MofJ handling of Freedom of Information Act (FoIA) Requests submitted to the MofJ by members of the public at the following points/dates in time:

- ii. On and after 09 October 2014.*
- ii. On and after 23 October 2014.*
- iii. The name of whom it is that at present currently holds the post/position within the MofJ.*

iv. *Copies, if they've made one, of each of their (i, ii and iii above) individual declaration(s) of interests for the following fiscal years*

- *2013-14*
- *2014-15*
- *2015 – current*

v. *Information about the salary, remuneration, bonuses and other benefits/perks etc (travel cost, healthcare etc.) paid or provided to them (i, ii and iii above) during the following fiscal years:*

- *2013-14*
- *2014-15*
- *2015 – current*

3. B. *The name(s) of whomever held the post of director/head of the department or office within the Ministry of Justice that in whole, or as part of their contract of employment was/is required to oversee the MofJ handling of requests for Internal Review's [sic] to be carried out in relation to Freedom of Information Act requests (that had previously been submitted to the MofJ by members of the public at the following points/dates in time:*

i. *On and after 12 November 2014.*

ii. *On and after 18 December 2014.*

iii. *The name of whom it is that at present currently holds the post/position within the MofJ.*

iv. *Copies, if they've made one, of each of their (i, ii and iii above) individual declaration(s) of interests for the following fiscal years*

- *2013-14*
- *2014-15*
- *2015 – current*

v. *Information about the salary, remuneration, bonuses and other benefits/perks etc (travel cost, healthcare etc.) paid or provided to them (i, ii and iii above) during the following fiscal years:*

- *2013-14*

- 2014-15
- 2015 – current

3. C. The name(s) of whomever held the post of director/head of the department or office within the Ministry of Justice that in whole, or as part of their contract of employment was/is required or otherwise obligated to deal with and/or respond to complaints and associated concerns raised by staff of the Information Commissioners Office (ICO) with the MofJ (in relation to Freedom of Information Act requests, Internal Review requests etc. submitted to the MofJ by members of the public) at the following points/dates in time:

- i. On and after 18 December 2014.*
- ii. The name of whom it is that at present currently holds the post/position within the MofJ.*
- iii. Copies, if they've made one, of each of their (i, ii and iii above) individual declaration(s) of interests for the following fiscal years*
 - 2013-14
 - 2014-15
 - 2015 – current
- iv. Information about the salary, remuneration, bonuses and other benefits/perks etc (travel cost, healthcare etc.) paid or provided to them (i and ii above) during the following fiscal years:*
 - 2013-14
 - 2014-15
 - 2015 – current”.