

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 March 2017

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

Decision (including any steps ordered)

1. The complainant requested information relating to statistical data about court orders made in the Family Court together with information about domestic violence and child protection matters.
2. By the date of this notice, the MoJ has yet to provide a substantive response to this request.
3. The Commissioner's decision is that the MoJ has breached section 10(1) of the FOIA in that it failed to provide a response to the request within the statutory timeframe of 20 working days. She requires it to comply with the request or issue a valid refusal notice as set out in section 17 of the FOIA.
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 December 2016, the complainant wrote to the MoJ and requested information in the following terms:

"1. The quarterly data from 1st July 2016 to 30th Sept 2016 for Non-molestation Orders, Occupancy Orders, Prohibited Steps Orders, Residency Orders, Contact Order, Divorce Petition, Decree Nisi and Decree Absolute by each family court, each designated family judge area, each region of England and Wales. Please also

include the total number of each orders for all family courts in England & Wales.

2. In addition to providing the quarterly data from 1st July 2016 to 30th Sept 2016 for NMO and Occupancy Order data please break down the data into the sub-category of applicants for these orders that are given: ex-parte male, ex-parte women, ex-parte unknown gender, on notice male, on notice female & on notice unknown gender for each family courts, each designated family judge area, each region of England and Wales. Please also include the total number of each orders for all family courts in England & Wales.

3. Provide data on solicitor firms supporting the application for NMO and Occupancy Orders from 1st July 2016 to 30th Sept 2016 for each family court in each region in England and Wales. Please also include the total number of each orders for all family courts in England & Wales.

4. The quarterly data from 1st July 2016 to 30th Sept 2016 for number of civil legal aid applications for family matters and divorce each county / city area in each region of England and Wales.

5. The quarterly data from 1st July 2016 to 30th Sept 2016 for the supporting evidence for domestic violence:

(a) a relevant unspent conviction for a domestic violence offence;

(b) a relevant police caution for a domestic violence offence given within the sixty month period immediately preceding the date of the application for civil legal services;

(c) evidence of relevant criminal proceedings for a domestic violence offence which have not concluded;

(d) a relevant protective injunction which is in force or which was granted within the sixty month period immediately preceding the date of the application for civil legal services;

(e) an undertaking given in England and Wales under section 46 or 63E of the Family Law Act 1996(2) (or given in Scotland or Northern Ireland in place of a protective injunction)—

(i) by the individual ("B") with whom the applicant for civil legal services ("A") was in a family relationship giving rise to the need for the civil legal services which are the subject of the application; and

(ii) within the sixty month period immediately preceding the date of the application for civil legal services, provided that a cross-undertaking was not given by A;

(ea) evidence that B is on relevant police bail for a domestic violence offence;

(eb) a relevant conviction for a domestic violence offence where B was convicted of that offence within the sixty month period immediately preceding the date of the application for civil legal services;

(f) a letter from any person who is a member of a multi-agency risk assessment conference confirming that—

(i) A was referred to the conference as a victim of domestic violence; and

(ii) the conference has, within the sixty month period immediately preceding the date of the application for civil legal services, put in place a plan to protect A from a risk of harm by B;

(g) a copy of a finding of fact, made in proceedings in the United Kingdom within the sixty month period immediately preceding the date of the application for civil legal services, that there has been domestic violence by B giving rise to a risk of harm to A;

(h) a letter or report from a health professional who has access to the medical records of A confirming that that professional, or another health professional—

(i) has examined A in person within the sixty month period immediately preceding the date of the application for civil legal service; and

(ii) was satisfied following that examination that A had injuries or a condition consistent with those of a victim of domestic violence;

(i) a letter from a social services department in England or Wales (or its equivalent in Scotland or Northern Ireland) confirming that, within the sixty month period immediately preceding the date of the application, A was assessed as being, or at risk of being, a victim of domestic violence by B (or a copy of that assessment);

(j) a letter or report from a domestic violence support organisation in the United Kingdom confirming—

(i) that within the sixty month period immediately preceding the date of the application for civil legal services, A had been accommodated in a refuge;

(ii) the dates on which A was admitted to and, where relevant, left the refuge; and

(iii) that A was admitted to the refuge because of allegations by A of domestic violence;

(k) a letter or report from a domestic violence support organisation in the United Kingdom confirming—

(i) that A was, within the sixty month period immediately preceding the date of the application for civil legal services, refused admission to a refuge, on account of there being insufficient accommodation available in the refuge; and

(ii) the date on which A was refused admission to the refuge;

(l) a letter or report from—

(i) the person to whom the referral described below was made;

(ii) the health professional who made the referral described below; or

(iii) a health professional who has access to the medical records of A,

confirming that there was, within the sixty month period immediately preceding the date of the application for civil legal services, a referral by a health professional of A to a person who provides specialist support or assistance for victims of, or those at risk of, domestic violence;

(m) a relevant domestic violence protection notice issued under section 24 of the Crime and Security Act 2010(3), or a relevant domestic violence protection order made under section 28 of that Act, against B within the sixty month period immediately preceding the date of the application for civil legal services;

(n) evidence of a relevant court order binding over B in connection with a domestic violence offence, which is in force or which was granted within the sixty month period immediately preceding the date of application for civil legal services;

(o) evidence which the Director is satisfied demonstrates that A has been, or is at risk of being, the victim of domestic violence by B in the form of abuse which relates to financial matters, where that

evidence dates within the sixty month period immediately preceding the date of, or is dated on the date of, the application for civil legal services. ”.

(3) In regulation 33(3) (definitions)(4), in the definition of “protective injunction”, after sub-paragraph (i) insert—

“(j) a female genital mutilation protection order under paragraph 1 or 18 of Schedule 2 to the Female Genital Mutilation Act 2003(5);

(k) a violent offender order within the meaning of section 98 of the Criminal Justice and Immigration Act 2008(6);”.

6. The quarterly data from 1st July 2016 to 30th Sept 2016 for the supporting evidence for child protection:

(a) Child Protection Plan In Place

(b) Conviction Or Caution For Child Abuse Offence

(c) Finding Of Fact Of Child Abuse

(d) Injunctive or Protective Order (NMO / Occupancy / DVPN / DVPO)

(e) On-going Criminal Proceedings For Child Abuse

(f) Police Bail

(g) Prohibited Steps In Addition To Application For Protective Order Or Injunction

(h) Social Services Letter

7. The quarterly data from 1st July 2016 to 30th Sept 2016 for divorce petition to show the sub-category of grounds for divorce for each region:

(a) Adultery

(b) Adultery and Unreasonable Behaviour

(c) Unreasonable Behaviour

(d) Desertion

(d) 2 Year Separation with Agreement

(e) 5 year Separation without Agreement

Please also include the total number for all regions in England & Wales.

8. Regions to be defined as London, Midlands, North Eastern, North Western, South Eastern, South Western and Wales except for divorce petitions when the regions are London & South East, Midlands, North Eastern, North Western, South Western and Wales.

9. The designated Family Judge areas to be defined as Birmingham DJF, Bournemouth and Poole DFJ, Brighton DFJ, Bristol DFJ, Caernarfon DFJ, Cardiff DFJ, Carlisle DFJ, Central Family Court DFJ, Chelmsford DFJ, Cleveland and South Durham DFJ, Coventry DFJ, Derby DFJ, East London DFJ, Exeter DFJ, Guildford DFJ, Kingston-upon-Hull DFJ, Leeds DFJ, Leicester DFJ, Lincoln DFJ, Liverpool DFJ, Luton DFJ, Manchester DFJ, Medway DFJ, Newcastle upon Tyne DFJ, Northampton and Milton Keynes DFJ, Norwich DFJ, Nottingham DFJ, Oxford DFJ, Peterborough DFJ, Plymouth DFJ, Portsmouth DFJ, Preston DFJ, Reading DFJ, Sheffield DFJ, South East Wales DFJ, Stoke on Trent DFJ, Swansea DFJ, Swindon DFJ, Taunton DFJ, Truro DFJ, Watford DFJ, West London DFJ, Wolverhampton DFJ, Worcester DFJ, Wrexham DFJ and York DFJ”.

6. The MoJ acknowledged receipt of that request for information on 16 December 2016. It told the complainant it would write to him in response to his request for information by 17 January 2016.
7. However, it had not responded substantively by the date of this notice.

Scope of the case

8. The complainant contacted the Commissioner on 27 January 2017 to complain that he had not received a response to his request.
 9. The Commissioner wrote to the MoJ on 7 February 2017 asking it to respond to the complainant within 10 working days.
 10. The complainant contacted the Commissioner on 22 February 2017 advising that, while he had received further correspondence from the MoJ, he had not received its substantive response to his request for information.
 11. The scope of this case is the determination of whether the MoJ complied with section 10 of the FOIA.
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Reasons for decision

12. Section 1(1) of the FOIA states that upon receipt of a request a public authority must confirm or deny whether information is held, and if that information is held it must be communicated to the requester.
13. Section 10(1) of the FOIA states that public authorities must comply with section 1(1) within 20 working days of receipt of the request.
14. Despite the intervention of the Commissioner, the MoJ has not responded to the complainant's request for information.
15. From the information provided to the Commissioner in this case it is evident that the MoJ did not respond to the complainant within the statutory time frame and so it is in breach of section 10(1) of the FOIA.

Other matters

16. The delay in responding to this request will be logged as part of ongoing monitoring of the MoJ's compliance with the FOIA.

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

Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF