

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 July 2018

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

Decision (including any steps ordered)

1. The complainant requested information about fines issued to private prison operators and providers.
2. The Commissioner's decision is that the Ministry of Justice (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. On 2 October 2017, the complainant wrote to the MOJ and requested information in the following terms:

"- From September 2016 to date, has the MOJ fined G4S (/applied 'performance point financial deduction amounts' to G4S/ asked G4S to make "financial remedy") for its running of prisons?

- From April 2016 to date, has the MOJ fined any other private prison operators/providers e.g. Serco (/applied 'performance point financial deduction amounts' / asked them to make 'financial remedy') for their running of prisons?

- Please provide a table of all the aforementioned fines to date broken down by the name of the prison e.g. HMP Thameside, specify the date of the fine and a description of what the fine was for and when e.g. if it was for failure to comply with Contract Delivery Indicators, please specify what CDI e.g. presence of psychoactive substances and please name the substances where appropriate

- If the information is held, please state what damage was caused at HMP Birmingham during a riot in December 2016 and what repairs G4S carried out. Please also state the cost of damage/repairs and which organisation met which bill i.e. G4S/MOJ

- If the information is held, please state if the MOJ/G4S had to pay any money/fine/penalty because police were called to help bring the riot in December 2016 under control

- Please provide the aforementioned information in a Microsoft Excel spreadsheet or csv file".

6. The MOJ acknowledged the request on the same day, 2 October 2017, but failed to provide a substantive response within 20 working days.
7. The complainant wrote to the MOJ in December 2017 and April 2018 to chase a response. The MOJ responded, apologising for the delay and stated that a response would be issued as soon as possible.

Scope of the case

8. The complainant contacted the Commissioner on 21 May 2018 to complain about the MOJ's failure to respond to his information request.
9. On 4 June 2018 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.

10. Despite this intervention the MOJ has failed to respond to the complainant.

Reasons for decision

11. Section 1(1) of 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.

12. 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.”*
13. 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 within 20 working days and it is now required to respond to the request in accordance with the FOIA.

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

Ben Tomes
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF