ico. Information Commissioner's Office

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: **01 December 2014**

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

Decision (including any steps ordered)

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1. The complainant requested an electronic copy of the Magistrates Courts Manual. The Ministry of Justice (the 'MOJ') acknowledged that it had failed to respond to the request within 20 working days and advised the complainant that it was working on the redaction and release of the manual. By the date of this notice, however, the MOJ has yet to provide a substantive response to this request.

2. The Commissioner's decision is that the MOJ breached section 10 of the FOIA in that it failed to provide a valid response to the request within 20 working days of receipt.

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

   - issue a response to the request of 21 May 2014 under the FOIA.

4. The public authority 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 21 May 2014, the complainant wrote to the MOJ and requested information in the following terms:

   "In response to FOI request number 90600 you provided an "extract from Magistrates Courts Manual".

   Please provide me with an electronic copy of the whole of this manual, by which I mean every single page which forms part of the manual.

   If you are unable to do this within 20 working days, estimate when you will be able to do so.

   If you are unable to provide it all due to the cost threshold, please (i) explain why, and (ii) provide me, under section 16 of the Act, with a contents list so I can choose some sections."

6. On 20 June 2014 the complainant contacted the MOJ about the lack of a response. On 25 June 2014, the MOJ wrote to him apologising for not having responded within the requisite 20 working days. It wrote again on 18 July 2014 to confirm it was working on the redaction and release of the manual.

7. The MOJ has yet to provide a substantive response to the request.

Scope of the case

8. The complainant contacted the Commissioner on 16 October 2014 to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the fact that no substantive response had been provided to his request.

9. That same day, the MOJ confirmed that it had not responded to the request. It said it was in the process of checking ten chapters in the manual, parts of which it said it may need to redact, but that it hoped to issue a response the following week.

10. The Commissioner contacted the MOJ again over the following few weeks to check on progress. By 25 November 2014, the MOJ confirmed that it was still not in a position to respond to the request, although it was still working on redacting the requested information.

11. No substantive response to the request had been provided by the date of this notice.

Reasons for decision

12. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the information requested. The Commissioner considers that the request in this case fulfilled these criteria, and therefore constituted a valid request under the FOIA for recorded information.

13. Section 10(1) of the FOIA provides that 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. From the information provided to the Commissioner it is evident that the MOJ did not respond to the complainant within the statutory timeframe in respect of this request.

Conclusion

14. The Commissioner's decision is that the MOJ did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the request within the statutory timeframe of 20 working days. At paragraph 2 above the MOJ is now required to respond to the request of 21 May 2014 in accordance with the FOIA.

Other matters

15. As well as finding above that the MOJ is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. This may form evidence in future enforcement action against the MOJ should evidence from other cases suggest that there are systemic issues within the MOJ that are causing delays.

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Right of appeal

16. 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

17. 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.

18. 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