

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 March 2016

Public Authority: Ministry of Justice

Address: 102 Petty France
London
SW1H 9AJ

Decision (including any steps ordered)

1. The complainant requested from the Ministry of Justice (MoJ) documented procedures relating to a particular scenario. To date he has not received a substantive response.
2. 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. He requires it to comply with the request or issue a valid refusal notice as set out in section 17 of the FOIA.
3. 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

4. On 5 October 2015, the complainant wrote to the MoJ via the *whatdotheyknow* website and requested information in the following terms:

"Dear Ministry of Justice, please provide or direct me to, any and all documented procedures by which the jurisdiction of an unlawful administrative court may be disputed".

5. Despite there being correspondence between the two parties via the *whatdotheyknow* website, for example on 30 October 2015, 2 December 2015 and 7 December 2015, the MoJ had not responded substantively by the date of this notice.

Scope of the case

6. The complainant contacted the Commissioner on 24 February 2016 to complain about the way his request for information had been handled.
7. The Commissioner wrote to MoJ on 29 February 2016. He asked it to respond within 10 working days.
8. The scope of this case is the determination of whether MoJ has complied with section 10 of FOIA.

Reasons for decision

9. Section 1(1) of 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.
10. Section 10(1) of FOIA states that public authorities must comply with section 1(1) within 20 working days of receipt of the request.
11. Despite the intervention of the Commissioner, MoJ has not responded to the complainant's request for information.
12. From the information provided to the Commissioner in this case it is evident that 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

13. The Commissioner notes that the MoJ told the complainant that his request was not dealt with as a Freedom of Information request.
14. In relation to 'normal course of business' responses, the Commissioner recognises that a request may be valid under the FOIA but handled under 'normal course of business', provided that all of the requested information is disclosed at least as quickly as it would have been under the FOIA. However, in this case, the complainant was not provided with a response as a result of the MoJ taking that approach.
15. 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

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
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Wycliffe House
Water Lane
Wilmslow
Cheshire
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