

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 September 2018

Public Authority: Ministry of Justice

Address: 102 Petty France

London

SW1H 9AJ

Decision (including any steps ordered)

1. The complainant requested information from the Ministry of Justice (MoJ) including information about appropriate addresses for government departments.
2. The Commissioner's decision is that, in failing to respond to the request within the statutory timescale, the MoJ breached section 10(1) of the FOIA.
3. As a response has been provided, the Commissioner does not require the MoJ to take any further steps.

Background

4. On 20 October 2017, the complainant wrote to the Reoffending Statistics Disclosure Team at the MoJ.
5. On 22 February 2018, following further correspondence, the complainant wrote to the MoJ:

"While I am obliged to you for your response to my questions a. and b. in my letter [20 October 2017] I note you failed to respond to my query regarding the same postal address for various departments and to whether or not these departments are all part of the same organisation with ultimate responsibility to the Prisons Minister.

... For your convenience, I enclose a copy of my letter 20 October with my specific request emphasised".

6. The part he emphasised was:

"Are all eight of the above government organisations part of the same department and ultimately responsible to the Prisons Minister?"

7. The MoJ responded on 9 March 2018, telling the complainant:

"...I am unable to answer why you have been referred to other departments when requesting information..."

8. The complainant contacted the Commissioner on 17 March 2018 to complain about the MoJ's response of 9 March 2018, specifically its failure to respond to part of his request for information. He provided copies of his correspondence dated 20 October 2017 and 22 February 2018 together with the MoJ's response of 9 March 2018.

9. He told the Commissioner:

"You will note in my letter 20 October 2017 that I asked for information regarding appropriate 'addresses' for government departments. To date I have received no response to this request..."

Request and response

10. On 20 October 2017, the complainant wrote to the MoJ and requested information in the following terms:

"To date, and at the behest of numerous Whitehall departments to which I have been directed, pillar to post, over the last six months, I have written for information to the following offices at the postal address SW1H 9AJ:

The Prisons' Minister

Parliamentary Under-Secretary, Minister of Justice

Dissemination & Enquiries Team, Prison, Probation, Reoffending and PbR Statistics, MoJ

Prisons and Probation Service

The Parole Board

...

I have also been referred for the same information to the following:

The Safer Custody & Public Protection Group at CR0 1XG

The Chief Inspector of Prisons at WC2B 6EX

The Parole Board for England and Wales at SW1H 9AG

HM Prison Service at SW1H 9EX

Are all eight of the above government organisations part of the same department and ultimately responsible to the Prisons Minister?"

11. Following the Commissioner's intervention regarding a complaint about its non-response to part of his request for information, the MoJ wrote to the complainant on 24 April 2018. It advised that it did not consider that he had made a valid request for information.
12. The complainant expressed dissatisfaction with that response on 29 April 2018. In his view, his request was for recorded information. He also considered that, under the provisions of the legislation, he was not obliged to refer to the FOIA when making a request for information.
13. Following further correspondence between the complainant and the MoJ, the MoJ ultimately wrote to the complainant on 6 August 2018 saying:

"It may be helpful if I explain that your whole request did not fall under the regime of the Freedom of Information. This is because the questions you have asked were not for recorded information but clarification on what departments fall within the Ministry of Justice remit and what the Prison Minister is responsible for"
14. It confirmed that it had previously responded to him about the departments referred to in his request. It explained the Ministerial structure of the MoJ and the responsibilities of the Secretary of State, the Minister of State and the Parliamentary Under Secretary of State.

Scope of the case

15. The complainant contacted the Commissioner on 11 August 2018 to complain about the way his request for information had been handled.
16. Referring to the MoJ's response of 6 August 2018, he told the Commissioner:

"Sadly I have to draw your attention to the irrelevance of that response a deliberate attempt to avoid (evade?) supplying suitable answers".

17. Despite the Commissioner's efforts to resolve matters by way of informal resolution, this has not proved possible in this case. Therefore, the analysis below considers whether the MoJ handled the request for information dated 20 October 2017 in accordance with the FOIA.
18. Specifically, the Commissioner has considered its handling of the part of the request emphasised by the complainant, namely:

"Are all eight of the above government organisations part of the same department and ultimately responsible to the Prisons Minister?"

Reasons for decision

Section 8 Request for information

19. Section 8 of the FOIA states:

"(1) In this Act any reference to a "request for information" is a reference to such a request which-

(a) is in writing,

(b) states the name of the applicant and an address for correspondence, and

(c) describes the information requested".

20. In this case, the complainant made his request in writing, stated his name and gave an address for correspondence. With respect to whether he described the information requested, the Commissioner acknowledges that the part of the 'request' under consideration in this case was in the form of a question.
21. The issue for the Commissioner to consider is its validity in respect of whether it describes the information requested.
22. The Commissioner considers that a request will meet the requirements of section 8(1)(c) as long as it contains a sufficient description of the information required. Each request has to be judged on its individual merits as to whether there were sufficient indicators provided to enable the information requested to be adequately described for the purposes of section 8. As long as a request attempts to describe the information it is likely to meet the requirements of section 8(1)(c) as it is always open

to the public authority to seek further clarification to identify the information.

23. In this case, the complainant's request is phrased as a question designed to obtain a 'yes' or 'no' response from the MoJ. However, it is clearly written with the aim of being answered with reference to recorded information, ie factual information about the structure and hierarchy of the MoJ.

Section 1 general right of access to information

Section 10 time for compliance

24. 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.
25. 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.
26. 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

27. While the Commissioner accepts that a requester does not have to mention the FOIA when making a request for information, she considers that it may help to do so. In her quick reference tool¹ to help users make effective freedom of information requests, she advises:

"Clearly state that you are making your request under the Freedom of Information Act/Environmental Information Regulations".

28. By way of background to the complaint in this case, the complainant told the Commissioner:

"... I began with a letter to my Member of Parliament dated 15 February 2017... Since then, I have been 'bounced' from one government department to another".

¹ <https://ico.org.uk/your-data-matters/official-information/>

29. In her guidance², the Commissioner advises requesters to find out who to send their request to in order that they can address their request directly to the appropriate contact within the authority.
30. The Commissioner recognises that the MoJ, a ministerial department, is supported by a number of agencies and public bodies. The Commissioner would advise that any future requests for information held by the MoJ are made to the MoJ's dedicated disclosure team.
31. She is satisfied that the complainant has been provided with the relevant contact details for the MoJ disclosure team on previous occasions. She accepts that the MoJ provided him with those details again on 6 August 2018.

² <https://ico.org.uk/your-data-matters/official-information/>

Right of appeal

32. 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

33. 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.
34. 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

**Deborah Clark
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