

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 October 2019

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

Decision (including any steps ordered)

1. The complainant requested information about a tribunal hearing.
2. The Commissioner's decision is that the Ministry of Justice (the 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 provide 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 15 May 2019, the complainant wrote to the MoJ with a hybrid request for information. Two of the questions related to a subject access request and are beyond the scope of this decision notice. The requested

information which is covered by the FOIA was addressed to the MoJ in the following terms:

"With regards a hearing I attended on [date redacted].

Just prior to the hearing you informed me of a person observing proceedings.

I...hope you might assist me with the following:

- 1. The ladies full name and who she represented. i.e who sent her to the Appeals Centre etc?*
- 2. The ladies current employment status?*
- 3. The time period she was in attendance at the Appeals Centre? i.e one day, five days, 2 weeks etc?*
- 4. [redacted and not applicable to FOIA]*
- 5. And would the observer's interest be relevant to your duties, the judges, perhaps health and safety? Please specify what the observer would be focused on at the hearing?*
- 6. [redacted and not applicable to FOIA]*
- 7. How many hearings did the observer attend (for the duration) on [date redacted]?*
- 8. Was the observer taking notes during any of the hearings she attended, i.e. written notes?"*

6. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 21 August 2019 to complain about the MoJ's failure to respond to their request.
8. The Commissioner has considered whether the MoJ has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

9. Section 1(1) of the 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."

10. 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"*.
11. On 20 September 2019 the Commissioner wrote to the MoJ, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within ten working days.
12. Despite this intervention the MoJ has failed to respond to the complainant.
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@justice.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

Sarah O'Cathain
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