ico. Information Commissioner's Office

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: **8 September 2021**

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

Decision (including any steps ordered)

1. The complainant requested quarterly offender management statistics. The Ministry of Justice (MoJ) refused to provide the requested statistics, citing sections 21 (information accessible to applicant by other means) and 14 (vexatious request) of FOIA.

2. The Commissioner's decision is that the MoJ has not demonstrated that the request was vexatious and was therefore not entitled to rely on section 14(1) to refuse it.

3. Nor has the MoJ demonstrated that the information was reasonably accessible to the applicant and was therefore not entitled to rely on section 21(1) to refuse it.

4. The Commissioner requires the MoJ to take the following step to ensure compliance with the legislation:

   - provide the requested statistics.

5. 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

6. On 19 October 2020, the complainant wrote to the MoJ and requested information in the following terms:

"Please provide me with copies of the latest Quarterly Management Statistics 2020 including but not limited to [complainant's numbering shown]:

1. Proven Re-offending Statistics Quarterly Bulletin

2. Prison Population Tables including escapes

1. Offenders in prison/supervised in the community (including prison population as of latest date)

3. Safety in Custody statistics

4. Deaths in Prison custody

5. Assaults and Self Harm

6. Costs per place and costs per prisoner by individual prison

7. Offenders convicted of terrorism (TACT) offences.

I would prefer to receive the data on disc if that is possible…."

7. He also advised that he does not have access to the internet.

8. The MoJ responded in a letter dated 8 October 2020, which the complainant said he received on 29 October 2020. In its correspondence, the MoJ cited reference 200227007 and thanked the complainant for his request for information dated 27 February 2020.

9. The MoJ included details of that February request in its correspondence, as follows:

"Please provide me with copies of the latest current Quarterly Management Statistics published in February 2020 including but not limited to:

1. Proven Re-offending Statistics Quarterly Bulletin

2. Prison Population Tables including escapes

3. Offenders in prison/supervised in the community (including prison population as of latest date)

4. Safety in Custody statistics

5. Deaths in Prison custody

6. Assaults and Self Harm

7. Costs per place and costs per prisoner by individual prison

8. Offenders convicted of terrorism (TACT) offences.

I would prefer to receive the data on disc if that is possible…."

10. The MoJ cited section 14(1) (vexatious request) of FOIA on the basis that it was not possible to put the information on a disc and that the MoJ could not be expected to provide the requested material in printed form due to the strain that would impose on time and departmental resources.

11. The complainant requested an internal review on 30 0ctober 2020. Citing reference 200227007, he disputed that the request is vexatious and confirmed that he does not have access to the internet.

12. Following an internal review the MoJ wrote to the complainant on 30 November 2020. It confirmed its application of section 14(1) and additionally cited section 21 (information accessible to applicant by other means) of FOIA. It also stated that it did not consider the MoJ had an obligation under section 11 (means by which communication to be made) of FOIA.

13. The Commissioner acknowledges that, while the wording of the requests is very similar, the dates of the requests cited by the complainant and the MoJ differ.

14. However, she is mindful that, when the complainant contacted her to complain about the MoJ's handling of his request, he cited the MoJ reference number 200227007.

15. For the purposes of this decision notice, therefore, she considers the date of the request for information was 27 February 2020.

16. It follows that the information within the scope of the request comprises the latest version of the requested statistics that had been published at that time.

Scope of the case

17. The complainant contacted the Commissioner, in correspondence dated 2 December 2020, to complain about the way his request for information had been handled. That correspondence was received on 21 December 2020.

18. The complainant disputed that his request is vexatious. He also confirmed that he does not have access to the internet due to his particular circumstances and that the MoJ is aware of this. It is accepted that, at the time of the request, and subsequent complaint, he was in prison.

19. Furthermore he disputed that the requested information could not be provided to him on disc, which the MoJ had refused to do in response to this request.

20. The complainant also provided the Commissioner with documentation that he considered supported his position.

21. With respect to the timeliness of its response to the request for information, during the course of the Commissioner's investigation the MoJ explained that lockdown delayed the enquiries required to respond to the request.

22. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part I of FOIA.

23. In this case, the MoJ has cited both a procedural section and an exemption, section 14(1) and section 21(1) respectively, in relation to the same information.

24. Of relevance to the request in this case, the Commissioner understands that quarterly offender management data is published, covering the timeframes January – March, April – June, July – September and October to December[1].

25. The analysis below considers the MoJ's application of sections 14 and 21 of FOIA to the latest version of those statistics published at the time of the request.

Reasons for decision

26. The Commissioner considered a similar request for information, from the same complainant, in case reference IC-82499-T8M9. The subject matter of that request, dated 15 March 2020, was the "*latest current Quarterly Management Statistics*" and included the same list of statistics as referenced in this request.

27. The Commissioner's decision in that case was that the MoJ failed to demonstrate that the request was vexatious and was therefore not

[1] https://www.gov.uk/government/collections/offender-management-statistics-quarterly

entitled to rely on section 14(1) to refuse it. She also determined that the MoJ had not demonstrated that the information was reasonably accessible to the applicant and was therefore not entitled to rely on section 21(1) to refuse it.

28. Having considered all the factors applicable to this case, the Commissioner is satisfied that the similarity between this case and IC-82499-T8M9 is such that she is able to reach the same decision without the need for further analysis.

29. The decision notice in IC-82499-T8M9[2] was issued on 8 September 2021.

[2] https://ico.org.uk/media/action-weve-taken/decision-notices/2021/4018419/ic-82499-t8m9.pdf

Right of appeal

30. 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: 0203 936 8963
    Fax: 0870 739 5836
    Email: grc@justice.gov.uk
    Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

31. 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.

32. 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 ……

Laura Tomkinson
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