

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 September 2016

Public Authority: Ministry of Justice

Address: 102 Petty France
London
SW1H 9AJ

Decision (including any steps ordered)

1. The complainant requested information relating to a judgment in a specific court case.
2. The Commissioner's decision is that the Ministry of Justice (MoJ) has breached sections 1(1) and 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory timeframe of 20 working days.
3. She requires the MoJ to comply with the request or issue a valid refusal notice as set out in section 17 of the FOIA.
4. 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

5. On 28 December 2015, the complainant wrote to the MoJ using the *whatdotheyknow* website and requested information in the following terms:

"I would like all relevant material to which Mrs Justice Andrews referred that enabled the production of the judgment in R (Nicolson) v Tottenham Magistrates [2015] EWHC 1252 (Admin), and where applicable from whom it was obtained.

Sources for example would be the case papers in those proceedings but also to include any other Court/Tribunal judgments etc., or for that matter any representations involved in such proceedings and any law books referred to".

6. The MoJ acknowledged receipt of the request on 31 December 2015. The two parties subsequently entered into prolonged correspondence regarding the request.

Scope of the case

7. The complainant contacted the Commissioner on 18 May 2016 to complain about the way his request for information had been handled.
8. The Commissioner notes that the MoJ, having initially acknowledged his correspondence of 28 December 2015 as an FOI request, subsequently told the complainant that his enquiry does not fall under the FOI regime and would be treated as 'Official Correspondence'.
9. The complainant does not accept this approach and wrote to the Commissioner confirming that he considers that his request is for recorded information.
10. The Commissioner recognises that it will often be more sensible, and provide better customer service, for a public authority to deal with a request as a normal customer enquiry under its usual customer service procedures.
11. The Commissioner contacted the MoJ on 15 June 2016 asking it to explain its handling of the request. The MoJ provided the Commissioner with a copy of correspondence dated 18 April 2016 it had sent to the complainant.
12. The scope of the Commissioner's investigation has been to determine whether the MoJ handled the request in accordance with the FOIA.

Reasons for decision

13. 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.
14. 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.

15. 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.
16. The Commissioner's decision is that the MoJ did not deal with the request for information in accordance with the FOIA, namely the requirements of sections 1(1)(a) and 10(1).
17. The Commissioner finds the MoJ in breach of section 1(1)(a) as it did not confirm to the complainant whether or not it holds the requested information and in breach of section 10(1) for failing to provide that confirmation within the statutory timeframe.

Other matters

18. 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

19. 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

20. 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.
21. 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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF