

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 29 July 2014

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

#### **Decision (including any steps ordered)**

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1. The complainant requested information about the use of a multi-purpose cleaner as a washing-up liquid. The Ministry of Justice (MoJ) failed to respond within the 20 working day limit thereby breaching section 10 of the FOIA.
2. As the MoJ has now responded, the Commissioner requires no further steps to be taken.

#### **Background**

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3. In support of his complaint about the delays he was experiencing the complainant brought to the Commissioner's attention details of several 'time sensitive' requests for information which he had made and which he considered had been subject to an unacceptable delay.
4. The Commissioner advised the complainant that, for the purposes of his investigation, he would take one of those requests as being representative of the complaint and investigate the way in which it was handled.

#### **Request and response**

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5. On 10 February 2014 the complainant wrote to the MoJ and requested information in the following terms:

*"A statement has been made by HMP Isle of Wight that they have introduced a multi floor cleaner and degreaser as washing up liquid the statement being and I quote "Replacing washing up liquid meant a significant saving (helping towards the millions the MoJ insist have to be made)".*

*In light of the above, under the Freedom of Information Act 2000, can you tell me:*

- 1. How many establishments (Prisons) are using degreaser and floor cleaner (name redacted) as a washing up liquid*
  - 2. What is the cost to HM Prison Service for the purchase of these items per year*
  - 3. What has the saving been in the last financial year (2012-2013) and the last 12 months in using a floor cleaner and degreaser instead of supplying a washing up liquid".*
6. The complainant received confirmation that his request has been received by HM Prison Service on the same day, 10 February 2014.
  7. Having not received any further acknowledgement or a substantive response, on 5 March 2014 the complainant enquired about the progress of his request for information.
  8. HM Prison Service responded on 7 March 2014 apologising for the delay in sending his request off. It explained:

*"Due to the excessive amounts of FOI requests we are receiving it has become very timely in processing".*
  9. The MoJ formally acknowledged receipt of the request on 11 March 2014. In its correspondence it stated that the request was received on 7 March 2014. The MoJ provided its substantive response on 4 April 2014. It refused to provide the requested information citing section 12(1) of FOIA (cost of compliance).

## **Scope of the case**

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10. The complainant contacted the Commissioner on 27 May 2014:

*"regarding the unacceptable delays being used by HM Prison Service in processing Freedom of Information requests".*
11. He complained that HM Prison Service, an executive agency of the MoJ, had failed to forward his request to the relevant department in a timely

manner thus making it impossible for him to receive the response within the statutory timescale.

12. As the nature of the complaint is with respect to the timeliness of the response rather than the response itself, the Commissioner has limited his investigation to considering whether the MoJ complied with the statutory time limits.

## **Reasons for decision**

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### *Section 10 time for compliance*

13. Section 10(1) of the FOIA provides that a public authority should comply with section 1(1) within 20 working days. Section 1(1)(a) requires a public authority in receipt of a request to confirm whether it holds the requested information.
14. The Commissioner has issued guidance on the handling of FOI requests<sup>1</sup>. In that guidance he says:

*"For a request to be valid under the Freedom of Information Act it must be in writing, but requesters do not have to mention the Act or direct their request to a designated member of staff. It is good practice to provide the contact details of your freedom of information officer or team, if you have one, but you cannot ignore or refuse a request simply because it is addressed to a different member of staff. Any letter or email to a public authority asking for information is a request for recorded information under the Act..."*

*An information request can also be made to any part of a public authority. You may have a designated information requests team to whom the public can make their requests. However, members of the public will often address their requests to staff they already have contact with, or who seem to know most about the subject of their request.*

*When you receive a request you have a legal responsibility to identify that a request has been made and handle it accordingly".*

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<sup>1</sup>

[http://ico.org.uk/for\\_organisations/guidance\\_index/~media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/guide\\_to\\_freedom\\_of\\_information.pdf](http://ico.org.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/guide_to_freedom_of_information.pdf)

15. His guidance also clearly states:

*"The time allowed for complying with a request starts when your organisation receives it, not when it reaches the freedom of information officer or other relevant member of staff".*

16. In other words, the 20 working day period starts when the request is received by the public authority, not when it reaches the 'right' desk.

17. In this case the request was submitted on 10 February 2014 but the response was not provided until 4 April 2014.

18. The Commissioner therefore finds that the MoJ breached section 10(1) by failing to comply with section 1(1)(a) within the statutory time period.

## **Other matters**

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19. The Commissioner understands that there are a number of rules, regulations and guidelines by which prisons are run. These are outlined in Prison Service Instructions (PSIs) and Prison Service Orders (PSOs).

20. PSO 9020 relates to the Data Protection Act and the Freedom of Information Act<sup>2</sup>. That PSO states:

*"It is very important to draw a distinction between FOI/EIR/DPA requests and routine correspondence. It is also important that requests received by Establishments, Groups, or Units which should properly be treated as requests for information under DPA/FOI/EIR are identified and forwarded to DACU as quickly as possible. This is because timescales for reply are set by legislation and the countdown for reply starts the day that MOJ (at whatever point; i.e. an Establishment, Group or Unit) receives a request".*

21. It is unfortunate that the processes in place did not allow the MoJ to respond to this information request in a timely manner.

22. The Commissioner expects the MoJ to take steps to ensure that this position does not recur.

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<sup>2</sup>

[https://www.justice.gov.uk/downloads/offenders/psipso/psipso/PSO\\_9020\\_data\\_protection\\_act\\_1998\\_and\\_freedom\\_of\\_info\\_act.doc](https://www.justice.gov.uk/downloads/offenders/psipso/psipso/PSO_9020_data_protection_act_1998_and_freedom_of_info_act.doc)

Reference: FS50542818

**The delay will be logged for monitoring purposes.**

## Right of appeal

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23. 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: 0116 249 4253

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

24. 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.
25. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**