

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

### **Decision notice**

**Date:** 30 June 2015

**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 Employment Tribunal jurisdictional cases from the Ministry of Justice (the 'MOJ'). By the date of this notice, the MOJ had yet to provide a substantive response to this request.
2. The Commissioner's decision is that the MOJ breached section 10 of the FOIA in that it failed to provide a valid response to the request within 20 working days of receipt.
3. The Commissioner requires the MOJ to take the following steps to ensure compliance with the legislation:
  - issue a response to the request set out in paragraph 5.
4. The public authority 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**

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5. On 5 January 2015 the complainant wrote to the MOJ and requested information in the following terms:

*"...Primarily, the paper's remit is to examine, through hard copy analysis the varying number of distinct types of Employment*

*Appeal Tribunal cases adjudicated at your establishment. Specifically, the below listed case jurisdictions:*

- 1. Appeals against an enforcement, improvement or prohibition notice imposed by the Health and Safety Executive or Environmental Health Inspector or by the Environment Agency.*
- 2. Suffer a detriment, dismissal or redundancy for health and safety reasons.*

*To this aim.[sic] I would be indebted if you could assist my dictation of said essay by supplying me with a hard copy catalogue list detailing the case reference particulars of the above types of appeals for statistical cross comparison analysis with record maintain [sic] at the Ministry of Justice. For example, Brown v Enfield Borough Council [1980] Court of Appeal 348 e.t.c. Thank you.*

*The information suitably chronographed per annum starting from year 2007 to 2014. Thank You."*

6. On 23 March 2015 the Commissioner wrote to the MOJ to query the apparent non-response. The MOJ advised that it had not previously received the request and would now respond within 20 working days, ie by 23 April 2015. The Commissioner contacted the complainant to update him.
7. From 5 May 2015, and on a number of occasions, the Commissioner contacted the MOJ to query whether the response had been issued and, if so, to request that a copy be sent to him. Apart from an initial acknowledgement that it would check to see if a response had been sent, the MOJ failed to provide the Commissioner with a copy of that response.
8. Therefore, on 8 June 2015 the Commissioner wrote to the complainant to determine whether he had now received a response to his request. The complainant subsequently confirmed he had not.
9. Finally, on 22 June 2015, the MOJ confirmed that the HM Courts and Tribunals Service (HMCTS) part of its organisation had started to respond with a view to meeting the 23 April 2015 deadline, but then realised it should have been handled by the London HMCTS team as it related to Court of Appeal cases and was different to the request made by the complainant previously. The MOJ apologised for the delay and confirmed that the London Unit would now prepare its response.

10. No substantive response to the request has been provided by the date of this notice.

### **Reasons for decision**

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11. 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.
12. Section 10(1) of the FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt. From the information provided to the Commissioner it is evident that the MOJ did not respond to the complainant within the statutory timeframe in respect of this request.

### *Conclusion*

13. The Commissioner's decision is that the MOJ did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the request within the statutory timeframe of 20 working days. At paragraph 2 above the MOJ is now required to respond to the request of 5 January 2015 (which it received on 23 March 2015), in accordance with the FOIA.

### **Other matters**

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14. As well as finding above that the MOJ is in breach of the FOIA, the Commissioner has also made a record of the significant delay in this case. This may form evidence in future enforcement action against the MOJ should evidence from other cases suggest that there are systemic issues within the MOJ that are causing delays.
15. The Commissioner is concerned about the MOJ's poor engagement in relation to his investigation of this complaint. The Commissioner does not expect to have to make repeated contact in order to secure a response to his investigation and, ultimately, to have to resort to contacting the complainant, in order to progress the complaint.

## Right of appeal

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

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

17. 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.
18. 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**