

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 January 2017

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

Decision (including any steps ordered)

1. The complainant requested information from the Ministry of Justice (the 'MOJ') about reoffending data relating to serious sexual offences for a specified period. By the date of this notice, the MOJ has yet to provide a substantive response to this request.
2. The Commissioner's decision is that the MOJ breached sections 1 and 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 under the FOIA by either complying with section 1(1) or issuing a valid refusal notice.
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 26 August 2016 the complainant wrote to the MOJ and requested information in the following terms:

"Could I please have the following proven reoffending quarterly data for the past five years available, broken down by year.

This period should begin in October 2008 and end in September 2014.

- 1. Proportion of offenders who commit a serious sexual reoffence (%)*
- 2. Average number of serious sexual reoffences per reoffender*
- 3. Number of serious sexual reoffences*
- 4. The number of serious sexual reoffenders*

I have modelled 1-4 of this request on the proven reoffending statistics tables

(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/541187/proven-reoffending-2014-q3.pdf) and I am looking for statistics referring only to sexual reoffending.

If possible, please could I have the information requested in Excel format.

If for whatever reason it is not possible to answer all of the above questions in their entirety, could you please answer whatever you can to the fullest extent of your ability"

6. The MOJ acknowledged receipt of the request on 31 August 2016. It wrote again to the complainant on 2 November 2016 and apologised for the continuing delay in responding.
7. To date, the MOJ has not responded to the request.

Scope of the case

8. The complainant contacted the Commissioner on 19 December 2016 to complain about the way her request for information had been handled.
9. The Commissioner contacted the MOJ on 20 December 2016 and 9 January 2017 to query the non-response; the MOJ did not reply.
10. No substantive response to the request had been provided by the date of this notice.

Reasons for decision

11. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
12. 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.
13. 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

14. The Commissioner's decision is that the MOJ did not deal with the request for information in accordance with the FOIA. In this case the MOJ has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days. At paragraph 3 above the MOJ is now required to respond to the request of 26 August 2016 in accordance with the FOIA.

Other matters

15. As well as finding above that the MOJ is in breach of the FOIA, the Commissioner has also made a record of the 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.

Right of appeal

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

Website: 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

Carolyn Howes
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