

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

**Date: 23 September 2010**

**Public Authority:** The Ministry of Justice  
**Address:** Selborne House  
Victoria Street  
London  
SW1E 6QW

#### Summary

---

The complainant requested information from the public authority and did not receive a response within twenty working days. The Commissioner has found a breach of section 10(1) because no response was issued to the original request within twenty working days. The Commissioner requires no remedial steps to be taken.

#### The Commissioner's Role

---

1. 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 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

#### The Request

---

2. On 17 March 2010 the complainant requested the following information in accordance with section 1(1) of the Act:

*'I apply under the provisions of the Freedom of Information Act for copies of any internal procedural guidelines contained in internal manuals or promulgated by other means, in respect of procedures for dealing with complaints made against the Ministry of Justice.'*

3. On 26 April 2010 the public authority issued a response. It explained that the request failed to reach the relevant department until 23 April 2010. It explained that it had conducted a preliminary assessment of the case and that the costs exemption could prevent the request from being processed. It explained that the Ministry of Justice is made up of a number of agencies, all of whom have different complaints procedures. It explained that if the complainant wished to narrow his request down to one department, it would like to be informed. Otherwise, it would consider the request as being for the information in respect to all of its agencies. It explained that it would wait a week before processing the request in order to provide time to receive this clarification. It apologised for the delay that had been experienced.
4. On 11 May 2010 the complainant wrote to the public authority. He explained he was willing to narrow this request. The Commissioner will refer to this narrowed request as the 'modified request' for the remainder of this Notice:

*'I am seeking procedures that relate to the central handling of complaints by the correspondence unit at the Ministry of Justice headquarters.'*

## The Investigation

---

### Scope of the case

5. On 11 May 2010 the complainant contacted the Commissioner to complain that the public authority had failed to issue a response to the original request within twenty working days.
6. On 22 June 2010 the complainant contacted the Commissioner to complain again about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the fact that the public authority had failed to reply to the original information request for information within 20 working days. During the Commissioner's investigations, it became apparent that a response had already been provided to the modified request on 14 May 2010. The complainant has not complained about the response to the modified request and is only complaint in relation to the original request of 17 March 2010 relates to the delay in responding and not the content of the response itself. This Notice is only therefore concerned with the lateness of the response to the original request.

7. The complainant also raised other issues that are not addressed in this Notice because they are not issues that relate to the Commissioner's role under section 50(1) of the Act.

## **Chronology**

8. 21 June 2010: The Commissioner wrote to the public authority. He explained that he had received a complaint about the failure to respond to the request of 17 March 2010 within 20 working days and asked the public authority to respond within ten working days. He also wrote to the complainant to confirm that this is what he had done.
9. 22 June 2010: The complainant responded to the Commissioner expressing dissatisfaction and asking for a Decision Notice to be issued.
10. 30 June 2010: The public authority explained in an email, that the reason the original request was not dealt with within the statutory timescales was because there was an internal communication error, with the request going to a fax machine in a different part of the building. It apologised to the Commissioner about this delay.

## **Analysis**

---

### **Substantive Procedural Matters**

#### **Section 10**

11. Section 10(1) (full wording in the legal annex) states:

*"... a public authority must comply with this section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."*

12. The original information request for information was made on 17 March 2010. The public authority failed to respond to this request within 20 working days. It therefore failed to comply with section 1(1) (full wording of each section is contained in the legal annex) which is a breach of section 10(1) of the Act.

## **The Decision**

---

13. The Commissioner's decision is that the public authority did not deal with the original request for information in accordance with the Act. The public authority has breached section 10(1) by failing to provide a response to the request within 20 working days of its receipt.

## **Steps Required**

---

14. The Commissioner requires no action to be taken in this case.

## Right of Appeal

---

15. 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,  
Arnhem House,  
31, Waterloo Way,  
LEICESTER,  
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: [informationtribunal@tribunals.gsi.gov.uk](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://www.informationtribunal.gov.uk)

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.

Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

**Dated the 23<sup>rd</sup> day of September 2010**

**Signed .....**

**Rachael Cragg  
Group Manager, Complaints Resolution  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**

## Legal Annex

### The Freedom of Information Act 2000

#### Section 1 - General right of access to information held by public authorities

(1) Any person making a request for information to a public authority is entitled—

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.

(2) Subsection (1) has effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14.

(3) Where a public authority—

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.

...

#### Section 10 - Time for compliance with request

(1) Subject to subsections (2) and (3), 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.

(2) Where the authority has given a fees notice to the applicant and the fee is paid in accordance with section 9(2), the working days in the period beginning with the day on which the fees notice is given to the applicant and ending with the day on which the fee is received by the authority are to be disregarded in calculating for the purposes of subsection (1) the twentieth working day following the date of receipt.

(3) If, and to the extent that—

(a) section 1(1)(a) would not apply if the condition in section 2(1)(b) were satisfied, or

(b) section 1(1)(b) would not apply if the condition in section 2(2)(b) were satisfied,

the public authority need not comply with section 1(1)(a) or (b) until such time as is reasonable in the circumstances; but this

subsection does not affect the time by which any notice under section 17(1) must be given.

...