

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 04 January 2018

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

Decision (including any steps ordered)

1. The complainant has requested information about sexual assaults in prisons from the Ministry of Justice (the "MOJ"); to date she has not received a substantive response. The Commissioner's decision is that the 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 20 working days of receipt. She requires it to comply with the request or issue a valid refusal notice as set out in section 17(1) of the FOIA.
2. 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 FOIA and may be dealt with as a contempt of court.

Request and response

3. On 1 August 2017 the complainant wrote to the MOJ with the following request:

"I would like to request the following information under the Freedom of Information Act:

- *The number of all types of sexual assaults in each prison (including Immigration Removal Centres) for each year from 2010 to 2016.*

In figures contained in this release the number of serious assaults is broken down by prison and this includes sexual assault, but I would like the figures for just sexual assault separated from other serious assaults.

<https://www.gov.uk/government/statistics/safety-in-custody-quarterly-update-to-march-2017>".

4. On 5 September 2017 the MOJ advised her as follows:

"I'm sorry that we have been unable to respond within the designated timeframe. Please be assured that work on your request is ongoing and we will respond to you as soon as possible".

Scope of the case

5. The complainant contacted the Commissioner on 19 October 2017 to complain about the lack of response to her information request.
6. The Commissioner contacted the MOJ on 16 November 2017 to query the non-response. She asked for an acknowledgement and also for a full response to be sent to the complainant within 10 working days; no acknowledgement was received.
7. On 2 January 2018 the complainant wrote to advise the Commissioner that a response remained outstanding.

Reasons for decision

Section 1 – general right of access

Section 10 - time for compliance

8. 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.
9. Section 10(1) of the FOIA states that on receipt of a request for information a public authority should respond to the applicant within 20 working days.
10. From the information provided to the Commissioner in this case it is evident 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. The MOJ is now required to respond to the request of 1 August 2017 in accordance with the FOIA.

Other matters

11. 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 which are causing delays.

Right of appeal

12. 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

13. 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.
14. 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
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF