

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 January 2018

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

Decision (including any steps ordered)

1. The complainant has requested, from the Ministry of Justice, information on people recalled to HMP Hull for breaking their licences.
2. The Commissioner's decision is that the Ministry of Justice has 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 Ministry of Justice to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's refined request dated 20 September 2017 in accordance with the FOIA.
4. The Ministry of Justice 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

5. On 9 August 2017 the complainant contacted the Ministry of Justice (MoJ) and requested under the FOIA:

'Please could you tell me how many people returned to HMP Hull for breaking licences between 1st July 2016 and 30th June 2017?

Furthermore, please could you provide me with a breakdown of the offence each prisoner originally committed, how they breached their licence and how soon after their release they reoffended'.

6. The MoJ responded on 7 September 2017 citing Section 1(3) of the FOIA and stated it was unable to answer the request without further clarification. In particular, it asked the complainant to clarify the following points:

- *'Prisoners can be recalled for any breach of their licence conditions which may or may not be in itself a criminal offence. For example, offenders can be recalled for missing appointments without a good reason, or failing to reside at a specified address. Do you mean how soon after release they were recalled who had a proven re-offence?'*
- *'In terms of the time between release and recall, does this mean that you would like an average time across all the recalled prisoners?'*
- *'In terms of the time between recall and release, what time periods do you wish release to cover? Are you interested only in offenders that have been recalled to HMP Hull following release in the time period specified in your question? Or of the cohort of prisoners recalled to HMP Hull in the specified dates, do you require the average time since they were released in any other time period? Please note that the latter would require exploring release data covering an extensive period of time and therefore we may not be able to provide you with this information within the costs limit specified in the FOIA, or there may be cases where release information predates our data systems and so we may not be able to provide you with this.'*
- *'When you say 'returned to HMP Hull for breaking licences between 1st July 2016 and 30 June 2017' are you referring to offenders that have been admitted to HMP Hull within the dates or offenders that have had their licence revoked (for breaking their licence) within the dates? Offenders may be admitted to HMP Hull for breaking the conditions of their licence prior to 1st July 2016.'*

7. On 20 September 2017 the complainant responded to the MoJ with a refined request in which he clarified the information he wanted as follows:

'Please could I have those who were recalled for any reason at all, though please could I also have a numerical breakdown of the reasons why they were recalled.'

I would like the average time between release and recall for all those recalled to HMP Hull between 1st July 2016 and 30th June 2017.

I am only interested in those recalled to HMP Hull during the specified time period.

I am only referring to this prisoners recalled to HMP Hull during that time period'.

8. In the absence of a response, the complainant contacted the MoJ again on 23 October 2017.

Scope of the case

9. The complainant contacted the Commissioner on 26 October 2017 to complain that he had not received a response to his refined request dated 20 September 2017, despite a reminder having been sent on 23 October 2017.
10. On 20 November 2017 the Commissioner contacted the MoJ and asked it to respond to the complainant's request within 7 days.
11. On 4 December 2017 the Commissioner contacted the MoJ again as the complainant still had not received a response to his request. She advised that, should the MoJ not respond by 11 December 2017, she would have no alternative but to issue a Decision Notice.
12. At the date of this Decision Notice, no response has been received by either the complainant or the Commissioner.

Reasons for decision

Section 10 – time for compliance

13. 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.
14. 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 has not responded to the complainant within the statutory timeframe in respect of this request.
15. The Commissioner's decision is that the MoJ did not deal with the request for information in accordance with the FOIA. In this case it 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 20 September 2017.

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

**Jon Manners
Group Manager
Information Commissioner's Office
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Cheshire
SK9 5AF**