

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 April 2021

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

Decision (including any steps ordered)

1. The complainant requested from the Ministry of Justice ("the MOJ") information relating to the First-Tier Information Rights Tribunal.
2. The Commissioner's decision is that the MOJ failed to respond to the request within 20 working days and therefore breached section 10 of the FOIA.
3. No steps are required.

Request and response

4. On 31 August 2021, the complainant wrote to the MOJ and requested information in the following terms:

"I request the following information from HMCTS pursuant to the general right of access to information contained within the Freedom of Information Act 2000:

- (a) *The number of times the First-Tier Tribunal (Information Rights) has sat at a venue in Scotland for an appeal under the Freedom of Information Act 2000, the Data Protection Act 1998 or the Data Protection Act 2018 for the periods (i) 1 October 2017 – 30 September 2018; (ii) 1 October 2018*

– 30 September 2019; (iii) 1 October 2019 – 31 August 2020

- (b) For each of the periods listed in (a) the number of times a venue has been booked in Scotland in connection with an appeal under the Freedom of Information Act 2000; the Data Protection Act 1998 or the Data Protection Act 2018, but the Tribunal did not actually sit (e.g. because the appeal was withdrawn or settled before the appeal hearing)*
- (c) For each of (a) and (b) the venues concerned*
- (d) The number of appeals lodged with the First-Tier Tribunal (Information Rights) under the Freedom of Information Act 2000; the Data Protection Act 1998 or the Data Protection Act 2018 where the address for the appellant or a respondent is in Scotland for the period 1 April 2019 to 31 March 2020. If this aspect of the request cannot be completed within the cost limit then please disregard it and answer only parts (a)- (c) of this request.*

I look forward to receiving a response in accordance with the Freedom of Information Act 2000.”

5. Whilst the MOJ did not acknowledge the complainant's request, as the request was sent to the MOJ's published email address for information requests, the Commissioner considers the request was received by the MOJ.
6. On 4 October 2020, as the complainant had not received a response, he wrote to the MOJ to ask for an update on the status of his request.
7. The complainant wrote to the MOJ again on 1 February 2021 to ask for an update on the status of his request. The MOJ did not respond to the complainant.
8. The complainant contacted the Commissioner 9 February 2021 to complain about the MOJ's failure to respond to his request.
9. The Commissioner contacted the MOJ on 19 February 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
10. The Commissioner also contacted the complainant on 19 February 2021 to explain that the MOJ had been given 10 working days from that date within which to provide a response to his request.

11. On 22 February 2021 the MOJ wrote to the Commissioner to explain that it had not responded to the complainant's request as it had no record of it.
12. The MOJ responded to the complainant's information request on 19 March 2021.

Scope of the case

13. On 24 March 2021 the complainant contacted the Commissioner to complain about the MOJ's handling of his request for information. He explained that he considered the MOJ to have received his request on 31 August 2020 and therefore, to have breached section 10 of the FOIA.
14. The scope of this notice and the following analysis is to consider whether the MOJ complied with section 10 of the FOIA.

Reasons for decision

15. Section 10 of the FOIA states that:

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.

16. The Commissioner considers that the request in question fulfilled the above criteria and therefore constituted a valid request for recorded information under the FOIA.
17. Section 10 of the FOIA states that responses to requests made under the Act must be provided, "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
18. The Commissioner recognises that the MOJ does not consider the request to have been received.
19. However, as the complainant's request and subsequent follow up emails were sent to the MOJ's published email address for information requests, the Commissioner considers the request to have been received by the MOJ.

20. As such, the MOJ did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the MOJ has breached section 10 of the FOIA.

Right of appeal

21. 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@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

22. 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.
23. 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

Ben Tomes
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