

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 6 July 2015

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

#### **Decision (including any steps ordered)**

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1. The complainant requested information from the Ministry of Justice (the 'MOJ') about regulations governing prisoners having their photographs taken. By the date of this notice, the MOJ had yet to provide a substantive response to this request.
2. The Commissioner's decision is that the MOJ breached section 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.
4. The public authority 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**

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5. On 16 March 2015 the complainant wrote to the MOJ and requested information in the following terms:

*"Please can you provide me with all recordable data, including Prison Service Instructions, which recite the regulations relating to prisoners having their photographs taken?"*

*I am advised that there exists a national directive on this matter but no such document is available in the prison library."*

6. On 18 May 2015 the Commissioner wrote to the MOJ to query the apparent non-response.
7. On 22 May 2015, the MOJ confirmed it had not responded but said that the request is complex because there is ongoing work surrounding the issue. It apologised for the delay and said it would contact the relevant unit and try to give an expected date for responding.
8. The MOJ wrote to the complainant on 29 May 2015 to advise that the response was being prepared.
9. In response to a further query from the Commissioner on 22 June 2015, the MOJ said that the response was still under discussion between the Head of the responding unit and the Secretary of State's Private Office.
10. No substantive response to the request had been provided by the date of this notice.

## **Reasons for decision**

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11. 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.
12. 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*

13. The Commissioner's decision is that the MOJ did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the request within the statutory timeframe of 20 working days. At paragraph

2 above the MOJ is now required to respond to the request of 16 March 2015 in accordance with the FOIA.

### **Other matters**

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

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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,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

16. 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.
17. 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**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**