

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 April 2016

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

Decision (including any steps ordered)

1. The complainant requested information about council tax liability hearings. By the date of this notice, the Ministry of Justice (the 'MOJ') has yet to provide a substantive response to this request.
2. The Commissioner's decision is that the MOJ 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 MOJ to take the following steps to ensure compliance with the legislation.
 - Issue a response to the request set out in paragraph 5 under the FOIA by either complying with section 1(1) or issuing a valid refusal notice.
4. 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 3 February 2016 the complainant wrote to the MOJ and requested information in the following terms:

"1. the full process by which a complaint is sworn in order to make the case for a council tax liability hearing, inclusive of any affirmation

requirements placed on the applicant (complainant), Guidelines on the standard of evidence required to obtain a summons, and the requirement to give due consideration as required by law.

2. the process to file a defence against a claim (or complaint) in a council tax liability hearing

3. the process to obtain full disclosure of all documents and records pertaining to the claim or complaint inclusive of pre-hearing court submission by the complainant."

6. The MOJ did not respond to the request.

Scope of the case

7. The complainant contacted the Commissioner on 5 April 2016 to complain about the way his request for information had been handled.
8. The Commissioner contacted the MOJ on 7 and 19 April 2016 to query the non-response. Having not submitted any reply initially, the MOJ confirmed on 19 April 2016 that the response was still being prepared.
9. No substantive response to the request had been provided by the date of this notice.

Reasons for decision

10. 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.
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. In this case the MOJ has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days. At paragraph 3 above the MOJ is now required to respond to the request of 3 February 2016 in accordance with the FOIA.

Other matters

14. 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 within the MOJ that are causing delays.

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,
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

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

Carolyn Howes
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