

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 14 December 2017

**Public Authority:** Ministry of Justice

**Address:** 102 Petty France  
London  
SW1H 9AJ

### Decision (including any steps ordered)

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1. The complainant has requested information about an MP's visit from the Ministry of Justice (the "MOJ"). The Commissioner's decision is that the MOJ has failed to provide a response to the request within the statutory time frame of 20 working days. She requires the MOJ to comply with the request or issue a valid refusal notice as set out in section 17 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 Act and may be dealt with as a contempt of court.

### Request and response

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3. On 18 July 2017 the complainant wrote to the MOJ via the "*What do they know?*" website<sup>1</sup> and requested information in the following terms:

*"I refer to a Point of Order raised by Gareth Snell MP in the House of Commons on 17 July 2017 (Hansard vol. 627). He spoke as follows:*

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<sup>1</sup> [https://www.whatdotheyknow.com/request/planned\\_visit\\_of\\_gareth\\_snell\\_mp](https://www.whatdotheyknow.com/request/planned_visit_of_gareth_snell_mp)

*"(...) On Friday, I was meant to meet the hard-working staff of Her Majesty's Courts and Tribunals Service in Bennett House in my constituency. Bennett House is leased by the Ministry of Justice and is scheduled for closure, and I was meeting staff who have concerns about those plans in my capacity as the local Member of Parliament. The meeting had to be moved, as MOJ officials informed staff that I would not be allowed on site, and that if I tried to get on site I would be prevented from doing so."*

*Please could you provide me with all information held by the MOJ (including HMCTS) on Mr Snell's proposed visit to Bennett House. This would include any internal emails, notes, decisions etc. as well as external correspondence".*

4. The MOJ acknowledged receipt of the request on 21 July 2017.
5. The complainant chased a response on 17 and 22 August 2017. The MOJ responded on 24 August 2017, apologising for the delay. On 31 August the complainant again wrote to the MOJ chasing his response. No reply was received so, on 8 September 2017, he requested an internal review into the handling of his request. Having heard nothing, on 17 September 2017 he again chased a response. On 20 September 2017 the MOJ responded, again apologising for the delay. On 30 October 2017 the complainant contacted the MOJ again. This was acknowledged on 8 November 2017 with an apology for the delay.
6. To date no response to either the original request or the request for an internal review has been provided.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 21 September 2017 to complain about the way his request for information had been handled.
8. On 13 November 2017 the Commissioner wrote to the MOJ. She asked it to provide a response to the complainant within 10 working days and also to acknowledge receipt of her correspondence. No substantive response to the request has been provided by the date of this notice and no acknowledgement has been received by the Commissioner.

### **Reasons for decision**

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#### **Section 10 – time for compliance**

9. The Commissioner considered whether the MOJ has responded to the request of 18 July 2017 in line with the provisions of the FOIA.

10. Despite the intervention of the Commissioner, the MOJ has not responded to the complainant's request for information or conducted an internal review into the handling of his request.
11. 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.
12. 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 and it is now required to respond to the request in accordance with the FOIA.

## **Other matters**

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### *Internal review*

13. The Commissioner cannot consider the amount of time it takes a public authority to complete an internal review in a decision notice because such matters are not a formal requirement of the FOIA. Rather, they are matters of good practice which are addressed in the code of practice issued under section 45 of the FOIA. However, the Commissioner has issued guidance in which she has stated that in her view internal reviews should take no longer than 20 working days to complete. In exceptional circumstances it may take longer but in no case should the time taken exceed 40 working days; it is expected that this will only be required in complex and voluminous cases, which this request was not.
14. The Commissioner would like to remind the MOJ that she routinely monitors the performance of public authorities and their compliance with the legislation. Records of procedural breaches are retained to assist the Commissioner with this process and further remedial work may be required in the future should any patterns of non-compliance emerge.

## 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 .....**

**Carolyn Howes**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**