

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 November 2017

Public Authority: Ministry of Justice

Address: 102 Petty France

London

SW1H 9AJ

Decision (including any steps ordered)

1. The complainant requested information about the deployments of the National Tactical Response Group (NTRG) and Tornado Teams in England and Wales from the Ministry of Justice (MoJ).
2. By the date of this notice, the MoJ has yet to provide a substantive response to this request.
3. The Commissioner's decision is that the MoJ breached sections 1 (general right of access) and 10 (time for compliance) of the FOIA in failing to provide a valid response to the request within 20 working days of receipt.
4. The Commissioner requires the MoJ to take the following steps to ensure compliance with the legislation:
 - provide the complainant with a response to his request which complies with the requirements of section 1(1) of the FOIA, or issue a valid refusal notice.
5. 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

6. On 2 August 2017, the complainant wrote to the MoJ and requested information in the following terms:
- "1.) Can you tell me,*
- (a.) on how many occasions,*
- (b.) in which prisons, and;*
- (c.) for what incidents (eg 'Barricade', 'WAH Internal' etc) the:*
- (i.) Tornado Team was deployed,*
- (ii.) Gold Command was opened, and;*
- (iii.) National Tactical Response Group (NTRG) was deployed,*
- in each month since January 2017.*
- 2.) Can you supply the same data for each month for 2016 calendar year?"*
7. The complainant wrote to the MoJ on 19 September 2017 and 10 October 2017 asking for an update on the status of his request.
8. By the date of this decision notice the MoJ had not issued a substantive response to this request.

Scope of the case

9. The complainant contacted the Commissioner on 11 October 2017 to complain about the MoJ's failure to respond to his request for information.
10. The Commissioner contacted the MoJ on 15 November 2017 regarding the status of this request. The MoJ advised that a response had been drafted and was *'awaiting senior sign off'*.
11. Despite the Commissioner's intervention the complainant has not been provided with a substantive response. Accordingly the analysis below considers whether or not there have been any procedural breaches of the FOIA.

Reasons for decision

Section 1 general right of access

Section 10 time for compliance

12. 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.
13. 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.
14. The Commissioner's decision is that the MoJ did not deal with the request for information in accordance with the FOIA. By failing to respond to the request in this case within 20 working days, the MoJ breached sections 1(1) and 10(1) of the FOIA.
15. The MoJ is now required to respond to the request of 2 August 2017 in accordance with the FOIA.

Other matters

16. The delay in responding to this request will be logged as part of ongoing consideration of the MoJ's non-compliance with the FOIA.

Right of appeal

17. 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

18. 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.
19. 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