

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

### **Decision notice**

**Date:** 9 November 2022

**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 about the charge/tariff for telephone calls made by prisoners from wing payphones, and from in-cell phones, in public sector prisons in England and Wales on various dates.
2. The MoJ initially provided some information within the scope of the request but withheld the remainder, citing sections 43(2) (commercial interests) and 22 (information intended for future publication) of FOIA. It later disclosed the requested information.
3. The Commissioner's decision is that the MoJ breached section 10(1) of FOIA by failing to provide a valid response to the request within the statutory time frame of 20 working days.
4. However, as the information has now been provided, the Commissioner does not require any steps as a result of this notice.

#### **Request and response**

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5. On 4 January 2022, the complainant wrote to the MoJ and requested information in the following terms:

"1. Can you please tell me the charges (tariff) for telephone calls made by prisoners from a) wing payphones, and b) in-cell telephones, in public sector prisons in England and Wales, that applied as of the following dates:

i) 1st March 2020

ii) 1st July 2021

iii) 27th September 2021.

In each case, please break down the charges into the cost per minute to make a call to a mobile or a landline, during the week or at the weekend.

2. Please may I see the scale of charges which applied in July 2021 for prisoners making phone calls within the UK from a) payphones on landings, and b) in-cell phones. Please break this down by the cost of calls to landlines and to mobiles, and the cost on weekdays and at weekends.

Please may I see the scale of charges which applied in September 2021, for landing payphones and for in-cell phones, as above.

3. Please can you confirm that BT is the commercial partner providing both the wing payphone service and the in-cell phone service”.

6. The MoJ responded on 1 March 2022, confirming it held the requested information. It refused to disclose the information in scope of parts 1, 2 and 3, citing section 43(2) (commercial interests) of FOIA. In relation to part 4 of the request, it confirmed that BT is the commercial partner providing both the wing payphone service and the in-cell phone service.
7. Following an internal review the MoJ wrote to the complainant on 31 March 2022, maintaining its view that section 43 applies.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 11 April 2022 to complain about the way his request for information had been handled. He disputes that the information is “a genuine commercial secret”.
9. During the course of the Commissioner’s investigation, the MoJ wrote to the complainant confirming its application of section 43(2) and additionally citing section 22(1) (information intended for future publication).
10. The MoJ subsequently disclosed the requested information to the complainant.
11. While acknowledging that the MoJ had provided all the information he had requested, the complainant remained dissatisfied.

12. As the information has now been provided, the Commissioner does not deem it proportionate to consider the MoJ's original application of exemptions.
13. This notice covers whether the MoJ complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

### **Reasons for decision**

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14. Section 1(1) of 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."

15. Section 10(1) of FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt".
16. From the evidence provided to the Commissioner, it is clear that the MoJ did not deal with the request for information in accordance with FOIA. The Commissioner finds that the MoJ breached section 10(1) by failing to respond to the request within 20 working days.

## Right of appeal

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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: 0203 936 8963  
Fax: 0870 739 5836  
Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

**Laura Tomkinson**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**