

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 March 2016

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

Decision (including any steps ordered)

1. The complainant submitted a request for information to the Ministry of Justice (the 'MOJ') about court costs. By the date of this notice, 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 25 November 2015 the complainant wrote to the MOJ and requested information in the following terms:

"1. Please confirm that Lambeth make payment to Camberwell Green Magistrates' Court on making a complaint.

2. *Please determine precisely what this payment is for, and how it is calculated.*
3. *If necessary, please direct me to the statute that indicates that the payment should be made for the different (if related) process of laying a complaint. The £3 fee is for an application for a Liability Order - (The Magistrates' Courts Fees (Amendment) Order 2013 4.1):*
 - 4.1 *Proceedings under the Council Tax (Administration and Enforcement) Regulations 1992(g) or the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(h) on an application for a liability order. £3*
Note: Fee 4.1 is payable in respect of each defendant against whom the liability order is sought.
4. *Please confirm that, as advised verbally, District Judge [name redacted] personally agreed the increase in Lambeth Borough Council's costs for summonses (based on the figures presented) as detailed in a letter signed by [name redacted] (Deputy Justices' Clerk) dated 19 January 2009. These costs, and the rationale for them, apply to this day.*
5. *Please explain why the approval did not specify that the Liability Order costs were also agreed.*
6. *Please provide the reasoning behind allowing the costs of sending all reminders and final notices to all affected constituents to be absorbed into the approved cost of sending a summons, and selectively those that do pay (who subsidise those that do not). This has been shown to be not lawful in principle, and immoral in accounting processes.*
7. *Please let me know whether a judge is precluded from hearing a case that would clearly challenge a relevant decision that they have previously made."*

Scope of the case

6. The complainant contacted the Commissioner on 10 February 2016 to complain about the way her request for information had been handled.
 7. This request was submitted whilst the Commissioner was investigating a complaint from the complainant about the MOJ's handling of another of her requests.¹ The two requests are linked; in addition the complainant
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¹ This case is still under investigation and the Commissioner is awaiting the MOJ's investigation response, so no decision has been made, or decision notice published as yet.

had submitted additional correspondence relating to both requests which resulted in the Commissioner having to contact her to clarify the chronology of the correspondence.

8. Additionally, the Commissioner had contacted the MOJ on 21 December 2015 to determine whether it had received the request of 25 November 2015. The MOJ confirmed it had received the request and would be considering it as part of its internal review of the complainant's other request; however it did not do so. As a result, the Commissioner contacted the MOJ on 10 February 2016 querying the non-response. Following an email exchange between the Commissioner and the MOJ, which included clarification about the two requests, the Commissioner advised that the request of 25 November 2015 remained unanswered and asked the MOJ to provide a response.
9. In the absence of a response, the Commissioner sent further reminders to the MOJ on 23 February and 7 March 2016.
10. No substantive response to the request had been provided by the date of this notice.

Reasons for decision

11. 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.
12. 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.
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.

Conclusion

14. 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 25 November 2015 in accordance with the FOIA.

Other matters

15. 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

16. 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

17. 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.
18. 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
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