

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 15 June 2016

**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 relating to contact in 2009 between the then Lord Chief Justice, Lord Judge, and the then Lord Chancellor/ Minister of Justice, Jack Straw. To date he has not received a substantive response.
2. The Commissioner's decision is that the Ministry of Justice (the MoJ) has breached section 10(1) of the FOIA in that it failed to provide a response to the request within the statutory timeframe of 20 working days. He requires it to comply with the request or issue a valid refusal notice as set out in section 17 of the FOIA.
3. 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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4. On 29 December 2015 the complainant wrote to the MoJ and requested information in the following terms:

*"On October 27, 2015 (reference [reference number redacted]) I was informed by [name redacted], the head of the Policy, Disclosure and Business Management Teams at the Ministry of Justice's Data Access and Compliance Unit that, inter alia, on Thursday, November 5, 2009, a 12-minute phone call was scheduled to take place between the then-Lord Chief Justice, Lord*

*Judge, and the then-Lord Chancellor/ Minister of Justice, Jack Straw, concerning "Youth Sentencing".*

*(2) In view of this please provide the following information, covering the period from November 5, 2009 to November 19, 2009. ("Written communication" here refers to any note, email, memorandum, diary entry, letter, note of the contents of a phone call, or any other form of written communication or documentation whatsoever).*

*i) Confirmation that the phone call in (1) above occurred.*

*.....*

*ii) The names and titles of anyone else who listened in (in particular, Jack Straw's private secretary or assistant private secretary).*

*iii) Copies of any written communication by any person participating in or listening to the call, as to the contents of the call, in particular as regards youth sentencing.*

*iv) Any written communication subsequently sent by anyone within the Ministry of Justice concerning the contents of the call, including, though not limited to, any communication made to or from Jack Straw's private office, or to or from a policy unit within the ministry, any communication made to Jack Straw or any civil servant on his behalf (in particular that presented him with options in relation to youth sentencing and the commencement or non-commencement of section 9 of the Criminal Justice and Immigration Act 2008), and any communication to a Ministry of Justice legal team, either directly or via a policy team, in relation to youth sentencing, and in particular relating to the contents of Criminal Justice and Immigration Act 2008 (Commencement No. 13 and Transitory Provision) Order 2009 (S.I. 2009 No. 3074), and, in particular, the commencement or non-commencement of section 9 of the 2008 Act.*

*v) Details of any internal meetings or discussions held in relation to the communications in (2) iii) and iv), including when and where they were held, who attended, what was said and what conclusions were reached. This should include any emails, memoranda or minutes written before, during or after any such meeting.*

*vi) The name and title of the person who drafted S.I. 2009 No. 3074.*

v) *A full explanation of why and how it was decided that that order would not bring section 9 of the Criminal Justice and Immigration Act 2008 into force....”.*

5. The MoJ acknowledged receipt of the request on 8 January 2016. However, it had not responded substantively by the date of this notice.

### **Scope of the case**

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6. The complainant contacted the Commissioner on 11 May 2016 to complain about the way his request for information had been handled.
7. The Commissioner contacted the MoJ on 10 June 2016 with regard to the status of the request. The MoJ confirmed that it has not issued its substantive response in this case.

### **Reasons for decision**

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8. Section 1(1) of the FOIA states that upon receipt of a request a public authority must confirm or deny whether information is held, and if that information is held it must be communicated to the requester.
9. Section 10(1) of the FOIA states that public authorities must comply with section 1(1) within 20 working days of receipt of the request.
10. From the information provided to the Commissioner in this case it is evident that the MoJ did not respond to the complainant within the statutory time frame and so it is in breach of section 10(1) of the FOIA.

### **Other matters**

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11. The delay in responding to this request will be logged as part of ongoing monitoring of the MoJ's compliance with the FOIA.

## Right of appeal

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12. 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)

13. 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.
14. 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**