

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 December 2022

Public Authority: Civil Procedure Rules Committee

Address: Carl Poole

Secretary to the Civil Procedure Rule Committee

c/o Access to Justice Policy Division

Ministry of Justice

Post Point 5.25

102 Petty France

London

SW1H 9AJ

Decision (including any steps ordered)

1. The complainant requested information in relation to minutes of meetings. By the date of this notice the Civil Procedure Rules Committee ("the CPRC") had not issued a substantive response to this request. The CPRC is listed as a public authority in its own right under Schedule 1 of FOIA.¹
2. The Commissioner's decision is that the CPRC has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the CPRC to take the following step to ensure compliance with the legislation.

¹ <https://www.legislation.gov.uk/ukpga/2000/36/schedule/1>

- The CPRC must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The CPRC must take this step 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 7 September 2022, the complainant wrote to the CPRC and requested information in the following terms:

"The Minutes of the Civil Procedure Rule Committee ("CPRC") dated 4th March 2022

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1066980/cprc_mins-4-march-2022.pdf

at Paragraph 36 states:

It was RESOLVED to amend PD 51Y to extend the expiry date for the first sentence of paragraph 3 (decoupling it from the expiration of the Coronavirus Act 2020) by 12 months, until 25th March 2023. Action: Sub-Committee, Drafting Lawyers and Secretariat to incorporate into urgent PD Update.

Q1 – Please confirm when the consultation period for this amendment opened?

Q2 – Please confirm when the consultation period for this amendment closed?

Q3 – Please confirm how many responses were received during the consultation?

The Minutes of the CPRC dated 10th June 2022

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1089189/cprc-mins-10-june-2022.pdf at Paragraph 24 states:

The Chair introduced the matter by explaining that this issue had been raised by the Designated Civil Judge for Birmingham following issues in practice, as to when transcripts are required, on contempt matters.

Q4 – if the matter had been raised in writing, please provide a copy of that document.

Q5 – if not answered as part of question 4, please provide the date that this was raised with the committee.

The Minutes of the CPRC dated 10th June 2022

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1089189/cprc-mins-10-june-2022.pdf at Paragraph 26 states:

rc-mins-10-june-2022.pdf at Paragraph 26 states:

It was RESOLVED to amend CPR 81.8(8) thus: “The court shall be responsible for ensuring that where a sentence of imprisonment (immediate or suspended) is passed judgments in contempt proceedings under this Part, that judgment is are transcribed and published on the website of the judiciary of England and Wales.”

Q6 – Please confirm when the consultation period for this amendment opened?

Q7 – Please confirm when the consultation period for this amendment closed?

Q8 – Please confirm how many responses were received during the consultation?”

6. The CPRC did not acknowledge the request. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 4 November 2022 to complain about the CPRC’s failure to respond to their request.
8. The Commissioner has considered whether the CPRC has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

Reasons for decision

9. 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."

10. 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".
11. On 17 November 2022 the Commissioner wrote to the CPRC, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention the CPRC has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the CPRC did not deal with the request for information in accordance with FOIA. The Commissioner finds that the CPRC has breached section 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 FOIA.

Right of appeal

14. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

15. 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.
16. 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF