

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 January 2024

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

Decision (including any steps ordered)

1. The complainant has requested information from the Ministry of Justice ('the MoJ') regarding the decision to remove a sentence from the Traffic Enforcement Centre refusal letter.
2. The Commissioner's decision is that the MoJ, on the balance of probabilities, has provided all information held within the scope of the request and nothing further exists.
3. The MoJ breached section 10(1) by failing to respond to the request within 20 working days.
4. The Commissioner does not require the MoJ to take any further action.

Request and response

5. On 15 May 2023, the complainant wrote to the MoJ and requested information in the following terms:
 - "1. If version 5.0 of the TEC User Guide for 'correspondence processes' has been replaced, then can I have a copy of the current version.
 2. If the guide no longer requires that a local authority serves a copy of their response to the TE7 application, then can I also have what

information you have on when that change took effect. If that is onerous, then please just give me the date of the change, if any.

3. Can I have a copy of any information you have which indicates why the sentence, about the local authority response, was dropped from the TEC letters refusing TE7 applications related to the Mersey Gateway.

4. Can I have a copy of any information you have on whether dropping that sentence applied to all your refusal letters no matter who the authority (including 'DART' charge) was. If that is onerous, then please just tell me the types of cases (parking, bus lane, road user charges, etc) where the TEC no longer tells the applicant about being served with the local authority response and approximately when that change to the TEC refusal letters took place."

6. The MoJ responded on 21 July 2023. It provided some information within the scope of the request and advised the remaining information is not held.
7. Following an internal review, the MoJ wrote to the complainant on 18 August 2023. It stated that it was upholding its original position.

Scope of the case

8. The complainant contacted the Commissioner on 4 September 2023, to complain about the way their request for information had been handled.
9. The complainant has confirmed that they are satisfied with the responses provided for part 1 and 2 of their request. They were not satisfied with the responses provided to the remaining parts of the request and believed information should be held.
10. The Commissioner considers that the scope of his investigation is to determine, on the balance of probabilities, whether the Council holds any additional information within the scope of the request.

Reasons for decision

Section 1 – general right of access

11. Section 1(1) of FOIA provides 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 them.
12. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is likely, or unlikely, that the public authority holds information relevant to the complainant's request.
 13. The MoJ advised the Commissioner that it had conducted relevant searches to determine the requested information was not held. It advised that searches of the local shared drive and emails were conducted, using the key terms of "COO refusal letter" which would locate any Court Officer Order.
 14. The MoJ explained that the local shared drive is where any of the requested information would be held and confirmed it was unable to locate any information within the scope of the request.
 15. The MoJ stated that it also checked with the delivery manager to confirm if any further information was held. The delivery manager has expertise in that section and was most likely to know whether the requested information was held.
 16. The Commissioner recommended some additional search terms and advised that email searches may also locate information within the scope of the request. The search terms suggested to the MoJ were; "local authority response Traffic Enforcement Centre/TEC letter", "TE7 applications", "Mersey Gateway" and "refusal letter change".
 17. The MoJ conducted a further search using the suggested terms, but, despite the additional searches, the MoJ was still unable to locate any information within the scope of the request.
 18. The MoJ stated that it has no business purpose for the requested information to be held, as the matter involves an internal decision. It explained that the necessary communications would have been made at the time, between TEC and the local authorities.
 19. The MoJ confirmed that if such information were held, there would usually be an electronic copy held in the relevant business area's shared

drive. The delivery manager would also be aware of such information if it were held or existed.

20. The MoJ advised that there are no statutory requirements upon it to hold the specific information that has been requested. It concluded that as the requested information has not been located, nor is it required to be held, it does not hold the requested information.

The Commissioners Decision

21. The Commissioner has decided that, on the balance of probabilities, the MoJ has conducted adequate searches to determine whether the requested information is held. He finds that no further information within the scope of the request is held by the MOJ.
22. The Commissioner does not require the MoJ to take any further action regarding this matter.

Procedural matters

23. Section 1(1) of FOIA requires a public authority to confirm whether or not it holds information that has been requested and to communicate the information if it is held and is not exempt information.
24. Under section 10(1) of FOIA a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of a request.
25. In this case, the complainant submitted their request on 15 May 2023 and the MoJ did not respond until 21 July 2023, therefore not complying with section 10(1).

Right of appeal

26. 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

27. 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.
28. 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
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