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24 September 2020

Dear Sir or Madam

Freedom of Information Act (FOIA) Request – 200828025

Thank you for your request dated 28 August for an Internal Review of FOI 200803019 in which you asked for the following information from the Ministry of Justice (MoJ):

- 1. HMCTS' Annual Report and Accounts for the year 2017-2018 refer to receiving three reports of bribery and corruption during 2017-2018, of which two were referred to the Police for consideration of a criminal prosecution and that a full thematic review of the process relating to the third referral is being undertaken. No mention of the outcome of this full thematic review is contained in the Annual Report for 2018-2019?**
- 2. Please provide details of the outcome of the two complaints referred to the Police/CPS and details of any sentence passed and/or fines regarding the criminal prosecutions.**
- 3. Please provide the details/outcome of the full thematic review relating to the third report.**
- 4. Please provide the Notes of any meeting(s) this thematic review was discussed at HMCTS Board level.**
- 5. Please provide details if any employees of HMCTS were disciplined and /or dismissed as a result of the three reports of bribery and corruption and the Department(s) they were employed in.**
- 6. Please confirm the total number of complaints/reports HMCTS received for bribery and corruption for the years 2018-2019 and 2019-2020 and any action taken.**

The purpose of an Internal Review is to assess how your FOI request was handled in the first instance and to determine whether the original decision given to you was correct. This is an independent review: I was not involved in the original decision.

The response to your request (200803019) said that, regarding Questions (1), (3) and (4), after making all reasonable searches HMCTS had been unable to identify or recover any recorded information relating to a thematic review of the process carried out following the publication of HMCTS Annual Report and Accounts for the year 2017/18.

Questions (2), (5) and (6) were answered.

After careful consideration I have concluded that this response was partially compliant with the requirements of the FOIA.

Statutory deadline

The statutory deadline for your request was 1 September 2020 and the response was provided on 28 August 2020. The response was therefore compliant with the timeliness requirements of the FOIA.

Outcome

In your request for an Internal Review you say:-

*Regarding Questions (1) (3) and (4), I have the following queries,
In view of the HMCTS Governance and Assurance RRDS policythere are clear guidelines as to the retention of information.....it is disconcerting to be informed, that no information has been kept..... To be "deemed unnecessary" there had to have been a decision making process.....Please explain why this information was not kept..... just because an employee leaves HMCTS' employment?The documents relating to the "full thematic review" 2017-2018, are quite clearly not outside of your record retention period.....Please provide an explanation as to why these documents were destroyed before time?"*

You then go on to describe certain conditions included in MoJ's Record Retention Policy and Guidance.

In the FOIA response you were told that after making all reasonable searches HMCTS has been unable to identify or recover any recorded information relating to a thematic review of the process carried out following the publication of HMCTS Annual Report and Accounts for the year 2017/18.

I have confirmed with the HMCTS Division responsible that to be true after all reasonable searches for the document in question have been made

Under Section 16 of the FOIA, it shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it. Within the FOIA 200803019 response you were advised "This may be due to a number of reasons, such as the planned thematic review was deemed unnecessary following further development work, or the information needed was not available. The decision makers at that time no longer work in HMCTS and the documents related to this are outside of our record retention period".

That information was provided to you under Section 16 of FOIA. It should have been made clear to you in the response that it was provided to you outside of FOIA and on a discretionary basis. I accept that this may have been interpreted as being part of the response but it was not.

It was made absolutely clear that the MoJ does not hold any information in the scope of your request and that is now confirmed.

Finally, regarding Question (6) of your original request, you were told that in 2018-19 there were no cases of bribery reported, One report of corruption was received but there was insufficient evidence for a criminal investigation. You have now asked "Please advise as to which Department the report of corruption was related to?" and "Please advise as to which

department deemed there was insufficient evidence for a criminal investigation and their reasons/evidence for doing so?”.

These questions will not be answered under the FOIA but as Business As Usual and will be responded to accordingly in due course.

In conclusion

I am satisfied that the response you received on 28 August was provided to you within the statutory time limits that apply to MoJ.

However, it was not made clear to you in that response that possible reasons regarding why the data requested in Questions (1) (3) and (4) is not held by HMCTS / MoJ were provided outside of FOIA and on a discretionary basis.

So, although I am content that the information requested by you under these questions is not held, that could have been further emphasised and for that reason I have deemed that the original response was partially compliant within the FOIA.

Appeal Rights

If you are not satisfied with this response you have the right to apply to the Information Commissioner's Office (ICO). The Commissioner is an independent regulator who has the power to direct us to respond to your request differently, if she considers that we have handled it incorrectly.

You can contact the ICO at the following address:

Information Commissioner's Office

<https://ico.org.uk/Global/contact-us>

Yours sincerely

K Smith

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NE Delivery Director's Office
Yours sincerely