

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 March 2014

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

Decision (including any steps ordered)

1. The complainant requested a copy of a document containing guidance to court staff.
2. The Ministry of Justice (MoJ) confirmed it held the requested information – namely the Crown Court manual. It initially provided the complainant with one section of that manual. However, having established that the request was in respect of the whole document, the MoJ refused to disclose the requested information citing section 12 of FOIA (cost of compliance exceeds appropriate limit).
3. The Commissioner's decision is that the MoJ incorrectly relied on section 12.
4. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - issue a fresh response to the request that does not rely on section 12.
5. The public authority 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.

Background

6. The Commissioner understands that the background to the request in this case is an earlier request, in response to which a few pages of a longer document were released.

Request and response

7. On 18 October 2013 the complainant made a request for information to Her Majesty's Courts and the Tribunals Service through the 'whatdotheyknow' website:

"In response to FOI request [reference redacted] (your ref) you provided 'section 1.5' of a document containing guidance to court staff. Please provide me with the entirety of this document".

8. The MoJ responded on 13 November 2013:

"I can confirm that the department holds information that you have asked for, and I am pleased to provide this to you. Please find enclosed with this letter a copy of Section 32 of Crown Court Manual. The Crown Court Manual is the guidance available to all court staff".

9. The complainant expressed dissatisfaction with that response, telling the MoJ on 13 November 2013.

"I very clearly specified that I wanted 'the entirety' of the document, and you have only provided me with one section of it.

Please provide me with the entirety of the document (ie. all of the sections) under the FOIA".

10. The MoJ acknowledged that correspondence as a fresh request for information. The complainant responded saying:

"No, that was NOT a fresh request. It was a reminder that you had failed to answer my initial request. Your response was due by 15th November (ie. tomorrow) so you still have time to comply with your legal duties under the Freedom of Information Act.

If I do not receive the information which I originally requested by close of play tomorrow, I will complain to the ICO".

11. Following further correspondence, the MoJ ultimately wrote to the complainant on 23 January 2014 confirming that it holds a full and complete copy of the Crown Court Manual. However it refused to provide

it citing section 12 of FOIA (cost of compliance exceeds appropriate limit).

Scope of the case

12. Following earlier correspondence, the complainant contacted the Commissioner on 6 January 2014 to complain about the way in which his request for information had been handled. He provided the Commissioner with the relevant documentation in support of his complaint.
13. From viewing the *'whatdotheyknow'* website, the Commissioner acknowledges that there was further correspondence between the complainant and the MoJ after the complainant brought his complaint to the Commissioner's attention. That correspondence includes the MoJ's application of section 12 to the requested information.
14. During the course of the Commissioner's investigation, the MoJ provided the Commissioner with a brief history of the request in this case. In that correspondence, it confirmed:

"Our last correspondence with [the complainant] was to substantively refuse his request for a copy of the "entire crown court manual" under reference [redacted]".
15. The Commissioner understands that to be a reference to the MoJ's correspondence of 23 January 2014 in which it told the complainant that it refused his request for information on the basis that:

"the cost of complying with your request would exceed the limit set".
16. In light of the above, the Commissioner considered the scope of his investigation to be the MoJ's application of section 12 of FOIA to the requested information – a copy of the entire Crown Court Manual.

Reasons for decision

17. In its substantive response of 23 January 2014, the MoJ told the complainant:

"I can confirm that the Ministry of Justice holds information that you have asked for. However, because the cost of complying with your request would exceed the limit set by the Freedom of

Information Act, on this occasion I'm afraid I will not be taking your request further".

18. During the course of his investigation, the Commissioner wrote to the MoJ inviting it to revisit the request and to provide him with a detailed estimate of the time/cost taken to provide the information falling within the scope of this request. As is his practice, the Commissioner acknowledged that:

"Having revisited the request, you may decide to apply a new exemption".

19. He asked for a response by 14 March 2014.
20. In a letter to the Commissioner dated 17 March 2014, the MoJ explained that it had revised its position. It told the Commissioner:

"The MoJ would therefore like to retract its reliance on Section 12(1)".

21. However, while confirming that it was no longer relying on section 12, the MoJ neither stated which sections of the FOIA were being relied on instead, nor disclosed the requested information to the complainant.
22. The Commissioner requires the MoJ to issue a fresh response under FOIA without relying on section 12.

Other matters

23. In bringing his complaint to the Commissioner's attention, the complainant said:

"In relation to my request, the few pages released in response to an earlier FOI request were clearly drawn from the Crown Courts Manual, so my request for "the entirety" of this document should have been taken, by any intelligent person, to refer to the entire Crown Courts Manual, rather than one chapter of it".

24. Where there was any doubt as to the information the complainant was requesting, best practice should have caused the MoJ to contact him, in accordance with their duty under section 16 of the FOIA, to clarify the nature of his request before responding.

Right of appeal

25. 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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

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

26. 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.
27. 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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