

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 December 2022

Public Authority: Ministry of Justice

Address: 102 Petty France
London
SW1H 9AJ

Decision (including any steps ordered)

1. The complainant submitted a request for information relating to Employment Tribunal Judges to the Judicial Conduct Investigations Office ("JCIO") which falls under the remit of the Ministry of Justice ("MoJ").
2. The Commissioner's decision is that, on the balance of probabilities, the MoJ does not hold the requested information. However, in failing to respond to the request within the statutory timescale, the Commissioner has determined that the MoJ breached section 10(1) of FOIA.
3. The Commissioner does not require the MoJ to take any further steps.

Request and response

4. On 19 May 2022, the complainant made the following request for information under FOIA:

"Please provide by return the following information held by JCIO requested under FOIA 2000.

The number of complaints laid before and received by the JCIO by members of the public or legal profession against the following from 2007 to 2021:

1. All Employment Tribunal Judges in England, including Regional;
2. Employment Tribunal Manchester Judges, including Regional;
3. From Par.1 how many were concerning bias, perversity and or discrimination of Parties;
4. From Par.1 how many were related to discrepancies in judgment/decision delivered vs hearing recollection."
5. On 2 August 2022, the MoJ responded stating that it did not hold the requested information.
6. On 3 August 2022, the complainant sought an internal review of the MoJ's decision and on 16 August 2022, the MoJ provided its response.

Reasons for decision

Section 1 (Held/Not Held)

7. 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."
8. The Commissioner has sought to determine whether, on the balance of probabilities, the MoJ holds the requested information.
9. The Commissioner notes that the complainant addressed their request for information to the JCIO. However the Commissioner understands that the JCIO is not a public authority in its own right, but ultimately falls under the remit of the MoJ. Furthermore, it is not in dispute that the MoJ is a public authority for the purposes of FOIA, nor is it disputed that the judiciary is not a public authority for the purposes of FOIA.
10. In correspondence to the Commissioner, the MoJ confirms its stance but accepts that the complainant could have been provided with further information regarding the routing of complaints to the Employment Tribunal Chamber President.

11. On the balance of probabilities, the Commissioner is satisfied that the MoJ does not hold the requested information, as the request is for judicial information.

Section 10 – time for response

12. Section 10(1) of FOIA states that a public authority must respond to a request promptly and in any event not later than the twentieth working day following the date of receipt.
13. The request for information was made on 19 May 2022 and the MoJ provided a response on 2 August 2022.
14. As this was more than 20 working days after the request was made, the Commissioner finds that the MoJ breached section 10(1) of FOIA.

Right of appeal

15. 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

16. 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.
17. 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

Laura Tomkinson
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF