

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 December 2022

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

Decision (including any steps ordered)

1. The complainant has requested information about attempts to access banned websites on the MoJ's systems.
2. The MoJ refused to comply with the request, citing section 31(1)(a) (law enforcement) of FOIA.
3. The Commissioner's decision is that the information engages section 31(1)(a) and the public interest lies in maintaining the exemption.
4. The Commissioner does not require the public authority to take any steps.

Request and response

5. On 5 May 2022 the complainant wrote to the MoJ and requested information in the following terms:

"Please can you provide me with a list of unsuccessful attempts to access banned websites in 2020, 2021 and 2022 to date.

I require the name or URL of the website and the number of attempts made to access it in each of the years. Please also specify if any follow up action/investigation was taken in any of the cases, to identify who was behind an attempt. I also require details of block categories and the type of URL filtering used."

6. The MoJ went back to the complainant and asked for clarification, which they provided on 23 May 2022:

“To clarify, I mean URLs and websites that are blocked by your filtering systems. This is all blocked content, not just malware. I hope this clarifies...”
7. On 15 June 2022 the MoJ responded to the request and refused to provide the requested information, citing section 24(1) (national security) and section 31(1)(a) (law enforcement).
8. The complainant requested an internal review on 22 June 2022.
9. On 20 July 2022 the MoJ provided the outcome to its internal review. It upheld its original position.

Scope of the case

10. The MoJ has confirmed to the Commissioner that it does not hold the requested information in a readily accessible, or central format, and believes section 12 (cost of compliance exceeds appropriate limit) applies to the request.
11. The MoJ has also explained that the structures that defend the MoJ's systems belong to its security partner and it considers this to be commercially sensitive information to which section 43 (commercial interests) would also apply.
12. However, the MoJ has explained that that it did not rely upon section 12 or section 43(2) to refuse the request because 'we considered that it was proper to refuse it on the grounds most relevant to the MoJ. This was that the information requested being available outside the MoJ would substantially increase the risk of a successful attack by undermining the confidentiality and integrity of departmental security systems.'
13. The Commissioner has considered a similar case recently¹, IC-178149-Y4B0, in which the complainant requested details relating to blocked websites from the House of Commons.

¹ [ic-178149-y4b0.pdf \(ico.org.uk\)](#)

14. The Commissioner will therefore consider the MoJ's application of section 31(1)(a). Depending on his findings, he may go on to consider section 24(1) also.

Reasons for decision

15. Section 31(1)(a) states that:

"Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice –

(a) the prevention or detection of crime"

16. Paragraph 13 of IC-178149-Y4B0 discusses why section 31(1)(a) is engaged and the Commissioner doesn't consider it necessary to repeat that whole analysis here.
17. The MoJ has confirmed that placing the requested information into the public domain would significantly increase the likelihood of a successful attack against the MoJ by assisting those with criminal or malicious intent in their attempts to circumvent the MoJ's systems.
18. Like in IC-178149-Y4B0, the Commissioner is satisfied that section 31(1)(a) is engaged and therefore he has gone onto consider whether the public interest lies in disclosure or in maintaining the exemption.
19. Both the Commissioner and the MoJ recognise that there is a public interest in public authorities being as open and transparent as possible about their processes.
20. However, the Commissioner agrees with the MoJ when it says, even if the requestor's intentions are innocent, 'understanding the defensive structure of an estate is primarily an action taken in preparation for an attack on that estate and therefore any disclosure relating to this issue would be against the public interest.'
21. Central government departments will always be an attractive target for hackers. In order to prevent attacks against its systems, the MoJ must be careful about what information it places into the public domain, including the information requested in this instance.

Other matters

22. Since the Commissioner is satisfied that the public interest lies in maintaining the exemption, he has not gone on to formally consider the MoJ's application of 24(1). However, the Commissioner considers it

Reference: IC-193427-Z2Z0



likely that the MoJ is also entitled to withhold the requested information under section 24(1), for the same reasons listed above.

Right of appeal

23. 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

24. 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.
25. 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

Alice Gradwell
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF