



Ministry of Justice

Mr Mark Ritchie
request-371795-705ca7fa@whatdotheyknow.com

**Data Access & Compliance
Unit**
Information Directorate
Ministry of Justice
10th Floor, Postal Point 10.38
Zone B
London, SW1H 9AJ

E : data.access@justice.gsi.gov.uk

www.gov.uk

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Freedom of Information Request

Dear Mr Ritchie,

Thank you for your email of 25 November, in which you asked for the following information from the Ministry of Justice (MoJ):

"I have asked you repeatedly for a number of years to take you to task over the incarceration of innocent people yet you have ducked and dived and tried to avoid me. Your number is bogus also which is basically a switchboard owned by a french company who does your dirty work because you havent got the guts to face the public. When put through to them, they will tell you they are not the MOJ and cannot help any further. So I will ask again now on here:-

- 1. Your telephone number, not 02033343555 as that is not your number.***
- 2. Your policy on speaking directly to members of the public. All of it.***
- 3. The list of senior staff at the MOJ who are entrusted to oversee miscarriages of justice and the court system, specifically the crown court and appeal court."***

Questions 2 and 3 of your request has been handled under the Freedom of Information Act 2000 (FOIA).

The first part of your request does not constitute a valid request under FOIA and therefore is out of scope.

It may be helpful if I explain that the FOIA (2000) gives individuals and organisations the right of access to all types of recorded information held, at the time the request is received, by public authorities such as the MoJ. Section 84 of FOIA states that in order for a request for information to be handled as a FOI request, it must be for recorded information. For example, an FOI request would be for a copy of a policy, rather than an explanation as to why we have that policy in place. On occasion, the Ministry of Justice receives requests that do not ask for recorded information, but ask more general questions about, for example, a policy, opinion or a decision.

If you do have any questions relating specifically to the Freedom of Information or Data Protection Act, please contact the Data Access and Compliance Unit at the following e-mail address: data.access@justice.gsi.gov.uk

Question 2

I can confirm that the MoJ does not hold any documents relating to speaking directly to members of the public who contact its switchboard.

It may help if I clarify that the information being requested is not held by MoJ because there is no legal or business requirement for MoJ to do so.

Please be advised that the FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. It does not place a duty upon public authorities to answer a question unless recorded information exists. The FOIA duty is to only provide the recorded information held.

Question 3

I have assessed your request for information, and unfortunately I will not be able to answer it without further clarification. Section 1(3) of the FOIA does not oblige us to answer requests where we require further clarification to identify and locate the information requested. We are unable to answer your request unless you provide us with further information.

You can find out more about Section 1(3) by reading the extract from the Act and some guidance points we consider when applying this exemption, attached at the end of this letter.

You can also find more information by reading the full text of the Act, available at <http://www.legislation.gov.uk/ukpga/2000/36/section/1>.

I am currently unclear as to the exact scope of the information in which you are interested. In order to help ensure that I provide you with the right information, I would be grateful if you could clarify your request. MoJ does not oversee miscarriages of justice, although we do hold records of appeals. Also MoJ does administer a statutory scheme for applications for compensation for a miscarriage of justice after acquittal. MoJ is also the sponsoring department for a non-departmental public body called the Criminal Cases Review Commission which will consider applications of convicted offenders who have exhausted the appeal system and under certain conditions may refer cases to the Court of Appeal (for more information please see the link to their website: <http://www.ccrcc.gov.uk/about-us/>). However it is an independent body and MoJ has no role in its decision making process.

With regards to the courts, Her Majesty's Courts and Tribunal Service is part of MoJ but they are only responsible for the operational side of the courts. Decisions relating to proceedings such as a matter for the judiciary and they are independent from Government.

The link attached provides information about the agencies and organisations of the Ministry of Justice: <http://www.justice.gov.uk/information-access-rights/foi-requests>

Upon receipt of this information I will be in a position to continue with the processing of your request.

In respect of your request for internal review of 16 December 2016 into the Department's timeliness on responding to your reply, I have looked into the reason for the delay in responding to your request. In this instance, the delay was caused by

an administrative oversight within the Department. I therefore confirm the MoJ was not compliant in its handling of your FOI request and breached section 10 (1) of the FOI Act, by responding outside of the twenty day statutory deadline.

Please accept my apologies for this delay.

Yours sincerely,

VICTIMS, WITNESSES AND CRIMINAL JUSTICE DELIVERY

**EXPLANATION OF FOIA – SECTION 1(3) - FURTHER INFORMATION
REQUIRED IN ORDER TO IDENTIFY AND LOCATE THE INFORMATION
REQUESTED.**

We have provided below additional information about Section 1(3) of the Freedom of Information Act. We have included some extracts from the legislation, as well as some of the guidance we use when applying it. We hope you find this information useful.

The legislation

Section 1: General right of access to information held by public authorities.

(1) 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.

(2) Subsection (1) has effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14.

(3) Where a public authority—

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.

Guidance

Is the request clear and specific?

If the request is unclear or vague, the public authority is obliged to provide reasonable assistance to the person who made the request.

This means more than simply telling them that their request is not specific enough, the public authority should take reasonable steps to provide assistance to the requester. The aim should be to assist the requester to refine their request so that it becomes specific enough for the public authority to identify the information they want. Once the original request has been clarified, the public authority can continue to process the request in line with the Freedom of Information Act.

EXPLANATION OF INFORMATION HELD FOR THE PURPOSES OF THE ACT

We have provided below additional information for information held for the purposes of the Freedom of Information Act. We have included some of the guidance we use when considering requests for information. I hope you find this information useful.

Is the information 'held' for the purposes of the Act?

A person may request any information 'held' in any recorded form by a public authority (or held by another on behalf of a public authority).

If the requester is asking for an opinion on an issue or asking for information that is not already held to be created, this is not a Freedom of Information Act request.

Information covered by the Act

All recorded information 'held' by a public authority is within the scope of the Freedom of Information Act. It includes files, letters, emails and photographs and extends to closed files and archived material.

Recorded information

The right of access applies to information recorded in any form. This includes:

- information that is held electronically (such as on a laptop computer or an electronic records management system)
- information that is recorded on paper (such as a letter, memorandum or papers in a file)
- sound and video recordings (such as a CD or videotape)
- hand-written notes or comments, including those written in note pads or on Post-it notes

Is the information 'held' under the Freedom of Information Act?

'Holding' information includes holding a copy of a record produced or supplied by someone else. However, if a public authority only holds information on behalf of someone else, for example a department holding trade union information on their computer system, then that public authority may not have to provide the information in response to a Freedom of Information Act request.

In some cases, it may not be clear whether information which is physically present on your premises or systems is properly to be regarded as 'held' by your public authority, for the purposes of the Freedom of Information Act. Examples include:

- private material brought into the office by ministers or officials
- material belonging to other people or bodies
- trade union material
- constituency material
- material relating to party political matters.