

Ermine Amies
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2 July 2021

Dear Ms Amies

Freedom of Information Act (FOIA) Request – 210618016

Thank you for your request dated 18 June 2021 in which you asked for the following information from the Ministry of Justice (MoJ):

1) The composition of the Editorial Team of the Equal Treatment Benchbook February 2018

- i. number of people
- ii. number of judges
- iii. number of MoJ employees
- iv. number of others
- v. names, positions and institutions of all the above

2) Composition of the “Equal Treatment Benchbook Committee” (as mentioned <https://www.rightsnet.org.uk/welfare-rights/news/item/judicial-college-publishes-interim-guidance-on-good-practice-for-remote-hearings-during-coronavirus-outbreak>)

- i. number of people
- ii. number of judges
- iii. number of MoJ employees
- iv. number of others
- v. names, positions and institutions of all the above

3) Roles of people named on the acknowledgement page (p3)

- i. Which of these people are on the Editorial Team?
- ii. Which are on the Committee?
- iii. Which have other roles?

4) Terms of reference, and rules of operation for the Editorial Team

5) Terms of reference, and rules of operation for the Committee (including term of appointment, criteria of selection)

6) For each of the main chapters:

Ch2: Children, Young People and Vulnerable Adults; Ch 3: Physical Disability; Ch 4: Mental disability; Ch 5: Capacity; Ch 6: Gender; Ch 7: Modern Slavery; Ch 8: Racism, Cultural/Ethnic Differences Antisemitism and Islamophobia; Ch 9: Religion; Ch10: Sexual orientation; Ch 11: Social exclusion and poverty; Ch 11: Trans people

- i. Who were the lead authors of this round of revisions?
- ii. Or alternatively, how many lead authors were there? (were they members of the Committee or Editorial Team, Judiciary, MoJ or other organisations)

- iii. **Who provided comments and edits from within the Committee, Editorial Team and Judicial College?**
- iv. **Or alternatively how many people provide comments (were they members of the Committee or Editorial Team, Judiciary, MoJ or others)**
- v. **Was the chapter open to wider comments (within the judiciary or outside)? Who provided comments?**

7) Details of any process of review or input into the Equal Treatment Benchbook February 2018 by:

- i. **Members of the judiciary outside of the Committee**
- ii. **Other groups**

Your request has been handled under the FOIA.

Statutory responsibility for the provision and content of training for the judiciary rests with the Lord Chief Justice as Head of the Judiciary in England and Wales, the Senior President of Tribunals, in line with the Constitutional Reform Act 2005, and with the Chief Coroner in line with the Coroners and Justice Act 2009. This maintains the independence of the judiciary meaning that the judiciary is not a public body for the purposes of the FOIA.

The information that you requested is not held by the MoJ for the purposes of the FOIA by virtue of section 3(2)(a). This sets out the criteria for establishing if information is held for the purposes of the FOIA and states that “for the purposes of this Act, information is held by a public authority if it is held by the authority, otherwise than on behalf of another person”.

The requested information is held by the Judicial College on behalf of the judiciary for the sole use of the judiciary. Therefore, it is not defined as information held by a public authority, as it is held entirely on behalf of the judiciary.

Whilst the Equal Treatment Bench Book is a publicly available document, any records and documents held in relation to its drafting and creation are held on behalf of the judiciary to whom the FOIA does not apply.

The following information is provided on a discretionary basis outside the scope of the FOIA.

Outside of the FOI and to be as helpful as possible, I can confirm that the ETBB is reviewed and updated by a judicial editorial panel, who are appointed to support the Judicial College. The ETBB has been compiled over many editions with input from judges from a wide range of courts and tribunals. The research that underpins the guidance is undertaken using various resources in addition to judicial experts, individual experts including academics, external bodies, and source materials. A list of past contributors can be found at Appendix G: <https://www.judiciary.uk/wp-content/uploads/2021/02/Equal-Treatment-Bench-Book-February-2021-1.pdf>

As you have mentioned in your request, at page 3 you can find a list of acknowledgements which gives thanks to important contributors to the revised edition.

There is a triennial formal review of the ETBB’s content and, as a living document, the Book is updated where guidance, including case law or legislation, changes or evolves. The most recent triennial review concluded in February 2021.

Appeal Rights

If you are not satisfied with this response you have the right to request an internal review by responding in writing to one of the addresses below within two months of the date of this response.

data.access@justice.gov.uk

Disclosure Team, Ministry of Justice,

You do have the right to ask the Information Commissioner's Office (ICO) to investigate any aspect of your complaint. However, please note that the ICO is likely to expect internal complaints procedures to have been exhausted before beginning their investigation.

Yours sincerely

Grace Hodges
Judicial College