



Ministry of JUSTICE

Mr Elliott

request-372803-46d219cb@whatdotheyknow.com
request-372818-79d28ccb@whatdotheyknow.com
request-375583-028098a8@whatdotheyknow.com

Information Governance
Legal Aid Agency
102 Petty France, London,
SW1H 9AJ

T 0300 200 2020

E InformationGovernanceLAA@legalaid.gsi.gov.uk

www.gov.uk/legal-aid

16th December 2016

Our Reference: [108812, 108814 & 109041]

Freedom of Information Request

Dear Mr Elliott,

Thank you for your emails of 21st November and 6th December, in which you asked for the following information from the Ministry of Justice (MoJ) – the numbering of the requests has been amended by myself for clarity:

Dear Legal Aid Agency,

Please may I request the following information?

1. Status of Berry and Lamberts Solicitors Legal Aid Licence position. What capacity to they hold a licence to practice Legal Aid.
2. Status of that licence and if revoked, to provide an explanation as to why.
3. Number of Ex-Parte Non Molestation /Protective injunctions sought from Q1 2013 to Q3 2016 by Berry and Lamberts.
4. Number of Legal Aid Applications made after withdrawals of ex-parte protection applications with the courts, specific to Berry and Lamberts Solicitors
5. Number of ex-parte emergency injunctions made by Berry and Lamberts without a DVPN or DVPO's.
6. Number of Ex-parte protective injunction Legal Aid Applications applied to Maidstone County Courts under Legal Aid Emergency Certificates for ALL solicitors within Maidstone Area UK.
7. Number of Legal Aid Substantive certificates awarded for Children's Act, Ancillary Relief, Divorce and Occupation Orders to all claimants when the Domestic Violence Gateway was NOT active. I.e., The Ex-parte, protective injunction application which under LASPO 2012 was the gateway to all other applications otherwise excluded.
8. Combined Statistics number of Emergency Legal Aid Certificates awarded to Berry and Lamberts and UK Solicitors after applications have been withdrawn from the courts by the Legal Aid Client.

Dear Her Majesty's Courts and the Tribunals Service,

Please may I be provided with the following critical data?

Date period to all questions - From Q4 2012 - October 2016. Relating to the England only.

9. How many Legally Aided Ex-Parte protective Injunctions were applied to the courts?

UNCLASSIFIED

10. How many of those ex-parte injunctions were later withdrawn from the courts, and how long were they 'open'.
11. How many Legally Aided Children's Act applications were successful as a direct result of Ex-parte protective injunctions which were WITHDRAWN, within the period above?
12. How many Legally Aided Ex-parte protective injunction cases were heard by the Maidstone County Courts by applications represented by Berry and Lamberts Solicitors, West Malling, KENT, during the above period?
13. How many Legally Aided Ex-parte protective injunction cases were heard by the Maidstone County Courts by applications represented by ALL KENT or UK based solicitors during the above period.
14. How many Legally Aided cases where ex-parte protective injunctions were withdrawn from the courts continued to be OPEN during other family court proceedings were LIVE (Children's Act, Divorce, Ancillary relief or Occupation Orders?)
15. Provide a list of Judges from the Maidstone County Courts who have approved Ex-parte protection injunctions on behalf of Berry and Lamberts solicitors of Kent.

Dear Legal Aid Agency,

Please provide the following information

16. Total number of Female & male ex-parte, legally aided, protective injunctions, awarded in the Maidstone County Courts to all solicitors (please name solicitors) between Nov 2011 - Nov 2016. (b) for all courts UK
17. Total number of legally aided protective injunctions/non-mols withdrawn from the UK courts, before legal aid substantive certificates awarded. Between Nov 2011 - Nov 2016 for all courts in the UK
18. Total number of Legally Aided protective injunctions were made ex-parte across UK Regions between Nov 2011 - Nov 2016 for all courts in the UK.
19. Total number of legally aided ex-parte, emergency protective injunctions awarded in the Maidstone Courts, (Sorted by Solicitors Firms).between Nov 2011 - Nov 2016.

Your request has been handled under the Freedom of Information Act 2000 (FOIA).

Your request was made in three emails addressed to the Legal Aid Agency [LAA] and Her Majesty's Court and Tribunal Service [HMCTS]. Because all of the requests are considered to relate to information which is to some extent similar, they have been aggregated within the meaning of s.5 The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. This means your questions as they appear above have been treated as a single request for the purposes of the Act.

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.

The law allows us to decline to answer FOI requests when we estimate it would cost us more than £600 (equivalent to 3½ working days' worth of work, calculated at £25 per hour) to identify, locate, extract, and then provide the information that has been asked for.

UNCLASSIFIED

To enable us to analyse if we can answer your question I have interpreted the questions into specific data parameters. For example; for question 8 the Ministry of Justice can in theory answer the request:

8. The volume of Emergency Legal Aid certificates issued by the LAA to providers in England and Wales where an ex-parte Non Molestation order has been used as LASPO s.33 gateway evidence but then that same non-molestation application has subsequently been withdrawn from the court before conclusion (Final Order or dismissal) by the legally Aided Client.

However, in this instance to provide you with the information requested at question 8, we would be required to check the records of 10,396 Emergency certificates. This is the total volume issued through the s.33 Domestic Violence Gateway to Providers since the introduction of "Gateway Evidence" in 2013 with the Legal Aid Sentencing and Punishment of Offenders act 2012 [LASPO].

Each of these 10,386 records would need manual checks to identify:

- Was the evidence documentation in the form of an ex-parte order
- The court application reference of any ex-parte order used as evidence
- Confirm with colleagues at HMCTS if that application was withdrawn before the date of application of legal aid by manual check of their system.

We estimate that answering just question 8 of the request would far exceed our obligations under the cost limit of the Act.

An attempt to answer many of the other 19 questions asked would likewise be in excess of the costs limit of the FOIA. The LAA Civil Case Management and HMCTS maintain separate case management systems and use separate reference number formats.

The estimated cost of complying with any of your questions is taken to be the estimated total cost of complying with all of them as per s.5(1) of the 2004 Regulations and s. 12(4) of the Act. We have therefore refused your request in its entirety.

Although we cannot answer your request at the moment, we might be able to answer a refined request within the cost limit. You may wish to consider, for example, limiting the number of cases which will need to be manually checked or not asking questions that would require the comparison of Legal Aid Agency and HMCTS records.

I can confirm that the status of legal aid certificates is not recorded with court data and details of a court application are not recorded in relation to a legal aid certificates.

Please be aware that we cannot guarantee at this stage that a refined request will fall within the FOIA cost limit.

You can find out more about Section 12(1) 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/12>.

UNCLASSIFIED

I am sorry that on this occasion I have not been able to answer your request. You have the right to appeal our decision if you think it is incorrect. Details can be found in the 'How to Appeal' section attached at the end of this letter.

Disclosure Log

You can also view information that the Ministry of Justice has disclosed in response to previous Freedom of Information requests. Responses are anonymised and published on our on-line disclosure log which can be found on the MoJ website: <http://www.justice.gov.uk/information-access-rights/foi-requests/latest-moj-disclosure-log>

The published information is categorised by subject area and in alphabetical order.

Yours sincerely

Information Governance

UNCLASSIFIED

How to Appeal

Internal Review

If you are not satisfied with this response, you have the right to an internal review. The handling of your request will be looked at by someone who was not responsible for the original case, and they will make a decision as to whether we answered your request correctly.

If you would like to request a review, please write or send an email to the Data Access and Compliance Unit within two months of the date of this letter, at the following address:

Data Access and Compliance Unit (10.34),
Information & Communications Directorate,
Ministry of Justice,
102 Petty France,
London
SW1H 9AJ

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

Information Commissioner's Office

If you remain dissatisfied after an internal review decision, you have the right to apply to the Information Commissioner's Office. The Commissioner is an independent regulator who has the power to direct us to respond to your request differently, if he considers that we have handled it incorrectly.

You can contact the Information Commissioner's Office at the following address:

Information Commissioner's Office,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire
SK9 5AF

Internet address: https://www.ico.gov.uk/Global/contact_us.aspx

ADDITIONAL INFORMATION ABOUT SECTION 12(1)

We have provided below additional information about Section 12 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: 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.

Section 12: Cost of compliance exceeds appropriate limit

- (1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.
- (2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.
- (3) In subsections (1) and (2) “the appropriate limit” means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.
- (4) The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority—
- (a) by one person, or
 - (b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.

- (5) The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.

Guidance

The appropriate limit

The 'appropriate limit', for the purposes of section 12 of the Freedom of Information Act has been set at:

- £600 for central government and Parliament.
- The hourly rate is set at £25 per person per hour.

The following activities may be taken into account when public authorities are estimating whether the appropriate limit has been exceeded.

- determining whether it holds the information requested

UNCLASSIFIED

- locating the information or documents containing the information
- retrieving such information or documents
- extracting the information from the document containing it.

UNCLASSIFIED