

"Bart Joseph"
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data.access@justice.gsi.gov.uk

21 February 2017

Dear Sir

Freedom of Information Act (FOIA) Request – 110159

Thank you for your email dated 3 February 2017, which asked for the following information from the Ministry of Justice (MoJ):

***Do you ever handle Common Law cases (the law of the land)?
...my request relates (I believe) to recorded information. I am not interested in
legalities as they have no relevance in a Common Law Jurisdiction. I think you will
record what cases you deal with so what I require of you is to tell me if there are any
common law cases there. You only need to find one to be able to say yes.***

Your request has been handled under the FOIA.

The MoJ does not hold any information in the scope of your request. It may assist if I explain that the type of cases which are funded by the LAA are recorded according category of law, for example 'Housing', 'Family', 'Crime' etc. This information is broken down into more detail (using pre-set, standardised descriptions) depending on the nature of the proceedings in question (e.g. in Housing Law this might be 'disrepair' or '[re]possession of property').

As I mentioned in my email of 3 February 2017, the LAA deals with cases according to the law of England and Wales (as per section 32 of the LASPO Act). Information about the LAA is available at <https://www.gov.uk/government/organisations/legal-aid-agency/about>. You have asked about which of these cases relate to 'common law'. Given your comments on 'legalities' I am unclear on what definition of 'common law' it is your intention to use, however in any event this is not something that the LAA records, as there is no legal or business reason for us to record such information.

In my original reply I explained that the FOIA covers recorded information. The FOIA does not require public authorities to function in an advice-giving capacity, or to create information in order to satisfy a request. Your request effectively asks the MoJ to produce a legal opinion regarding the cases the LAA funds. This is not something that can be provided to you under the auspices of the FOIA. The Information Commissioner's Office produces guidance on this point, and you may find this useful to assist you with structuring any future requests you may wish to submit (at https://ico.org.uk/media/for-organisations/documents/1169/determining_whether_information_is_held_foi_eir.pdf).

If you have an enquiry on case volumes according to a variable we record (as I have illustrated in the examples above) then we can consider this as a new request made under the Act. Please note however that any requests for more detailed case information (i.e.

beyond that which we record electronically in order to monitor and track the use of the legal aid scheme) may require us to review cases manually, which would be very likely to exceed the cost limit as described at section 12 of the Act given the nature of such an exercise, and the number of matters which would invariably be involved.

You may however firstly wish to note that the LAA publishes detailed information regarding volumes of cases as well as figures on expenditure, and this is available to view at <https://www.gov.uk/government/collections/legal-aid-statistics>.

I hope this reply is helpful to you.

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.gsi.gov.uk

Data Access and Compliance Unit, Ministry of Justice, 10.38, 102 Petty France, London, SW1H 9AJ

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

Information Governance
Legal Aid Agency