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12th January 2021

Dear Sir or Madam,

Freedom of Information Act (FOIA) Request – 201211031

Thank you for your request dated 11th December 2020 for an Internal Review of FOI 201117002 in which you asked for the following information from the Ministry of Justice (MoJ):

1) Please advise the total number of complaints received by the HMCTS Fraud Department, involving the alleged forgery of judicial documents, between January 2016 and December 2018. "Judicial Documents" please confirm this to mean Case Law, in particular: R (on the application of XXXX) Claimant- and -The Parole Board

2) Please advise if the outcome of any complaints being received in 1 above, have been referred to the Police/CPS for prosecution, resulting in the dismissal or discipline of HMCTS' employees at any level.

(A) If any complaints have been received by the HMCTS Fraud Department, with regard to the above case law's use, involving the allegation of forgery by any member of the Employment Tribunal judiciary and or HMCTS' Disclosure Team personnel between January 2016 and December 2018?

(B) If confirmed, was an investigation carried out by HMCTS Fraud in relation to any allegations of "forgery" appertaining to the above case law.

(C) If so, were any employees at any level referred to the Police/CPS for potential prosecution?

(D) Were any employees at any level in any department of HMCTS dismissed or disciplined as a result of any investigation carried out?

3) Please advise if any of HMCTS' departments were involved in the forgery of any documents supplied to the ET Tribunal, during the ET case of XXXX presided over by XXXX (as widely reported in the national press)

I acknowledge your statement that "you do not accept that HMCTS' departments were involved in the forgery of any documents supplied to the Employment Tribunal during the case of XXXX presided over by XXXX." However, it is clear from XXXX comments that somebody did.

HMPPS are currently considering the public interest test with regard to XXXX comments and whether they can confirm if any of their staff were involved in the forgery of documents.

4) The Government's Legal Department, who represent and advise (including XXXX case) has a you tube 2 minute video, entitled "Lawyers in Government Film" an extract is detailed here: "Ultimately we just don't interpret the law, we make it, re-imagine it and pilot it through areas it's never been before."
<https://www.youtube.com/watch?v=ugPxrWVwjI0&feature=youtu.be> Please therefore advise if corrupting and forging (reference XXXX) could be defined as "making and re-imagining and pilot it through areas it's never been before"?

Your request has been handled under the FOIA.

The purpose of an Internal Review is to assess how your FOI request was handled in the first instance and to determine whether the original decision given to you was correct. This is an independent review. I was not involved in the original decision.

The response to your request (201117002) confirmed that, regarding Questions (1) and (2), the MoJ holds the information that you had requested. However, it was exempt from disclosure under section 40(2) of the FOIA, because it contains personal data and the numbers involved are between one and five, possibly enabling the identification of individuals through the "jig-saw" approach. Section 40(2) is an absolute exemption and does not require a public interest test under the FOIA.

Question (3) was refused on the basis that under Section 14(2) the FOIA the MoJ is not required to reply to you if a substantially similar or identical request has been received and answered by MoJ within a reasonable time period before your current question.

Question (4) was considered as asking for advice and guidance and therefore not to be answered under FOIA.

After careful consideration I have concluded that this response was compliant with the requirements of the FOIA.

Statutory deadline

The statutory deadline for your request was 15th December 2020 and the response was provided on 11th December 2020. The response was therefore compliant with the timeliness requirements of the FOIA.

Outcome

In your request for an Internal Review you say "Question 4 is clearly not about asking for "advice" or "guidance" but is to define any policy in place, which allows whatever department was responsible for the corruption, forgery, alteration, after the date etc. documents used in the Employment Case of XXXX and presided over by XXXX."

I should point out that responses under FOIA are provided in to the public domain – hence why I have chosen to redact the names mentioned in this response.

In this instance you clearly did not specifically ask for a copy of any policy that might be in place regarding the matters covered by your request. You are, of course, fully entitled under FOIA to request copies of any policies held within MoJ relating to any specific matters. In

order to do this you will need to submit a new FOIA request to MoJ. Please be specific about the policies or subject matter of the policies requested.

However, in FOIA Request FOIA 201117002 you did not do that.

Regarding Questions (1) and (2), I have confirmed and am content that the number of instances involved was between one and five and that to release any further information into the public domain under FOIA (as noted above) could reasonably risk the identification of the individuals involved.

On 12th November you were sent a Do Not Hold response to a request for *“Please advise if any of HMCTS’ departments were involved in the forgery of any documents supplied to the ET Tribunal, during the ET case of Mr XXXX presided over by Judge XXX (as widely reported in the national press)”*

I am content, therefore, that Question (3) had therefore already been Asked and Answered and that FOIA Section 14(2) was correctly applied in this instance.

In conclusion

In conclusion, I am satisfied that the response you received on 11th December 2020 was correct and in accordance with the FOIA.

Appeal Rights

If you are not satisfied with this response you have the right to apply to the Information Commissioner’s Office (ICO). The Commissioner is an independent regulator who has the power to direct us to respond to your request differently, if she considers that we have handled it incorrectly.

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

<https://ico.org.uk/Global/contact-us>

Yours sincerely

Jennifer Mackinnon

Analysis and Performance Division, Her Majesty’s Courts and Tribunals Service (HMCTS).