



Ministry of Justice

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N. Gilliatt aka fFraudwAtch UK

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Our Reference: 106289

20 July 2016

Freedom of Information Request

Dear N. Gilliatt,

Thank you for your emails dated 28 June, 29 June (x2), 30 June, 1 July and 11 July in which you asked for the following information from the Ministry of Justice (MoJ):

"I would like to know if when a judge is so blatantly biased that there is no doubt that a hearing has been conducted unfairly, whether an investigator would consider it Misconduct or Acceptable conduct.

Can the Judicial Conduct Investigations Office therefore disclose what records it holds regarding the matter. See for example "JACO Annual Report 2006-07 ANNEX A - Examples of Maladministration"

<http://legalbeagles.info/forums/showthread.php?36444-Council-Tax-Liability-Order-Applications-Court-Costs-%96-Test-Case&p=600980#post600980>

Also it would be reasonable to assume that the paragraph below quoted from a complaint outcome is endorsing biased conduct.

<https://www.scribd.com/doc/291332937/Judicial-Conduct-Complaint-Outcome>

"An essential part of a judge's function is weighing up the evidence presented to them and applying the law accordingly. In order to carry out this aspect of their function, judges have discretion to determine the evidence they are willing to consider and the matters they wish to explore in a hearing..."

1) District Judge Daniel Curtis was complained about to the Judicial Conduct Investigations Office (<http://tinyurl.com/psp22hm>) and the matter of complaint reported as a crime to the police.

The Judicial Conduct Investigations Office considered the complaint did not meet the criterion to be valid, and in a letter (see link below) stated that the complaint did not contain an allegation of misconduct on the part of a judicial office holder.

<https://www.scribd.com/doc/291332937/Judicial-Conduct-Complaint-Outcome>

An obvious concern (below quote) is the caseworker's justification for his decision not to investigate.

" An essential part of a judge's function is weighing up the evidence presented to them and applying the law accordingly. In order to carry out this aspect of their function, judges have discretion to determine the evidence they are willing to consider and the matters they wish to explore in a hearing, irrespective of whether a party considers those matters irrelevant...."

It is unlikely that the discretion is unconditional and when the evidence [<http://tinyurl.com/zap5q5c>] of one party in the proceedings suggests that the other party is deliberately intending to deceive the court, then it must amount to misconduct if the judge were to use discretion not to consider that evidence.

Footnote [1]

" Representations were served by the Council on 16.10.15, at which point the production of this supplementary submission was underway though incomplete. The content in paragraphs 7, 68-70 and 73 of the Council's Witness Statement [<http://tinyurl.com/j53vgd6>] caused the Defendant to suspect a deliberate intent to deceive the court. This matter will consequently require additional representations here to essentially contend the Council's statement that it had no further reason to believe that the costs were being disputed when the claim for Judicial review was withdrawn. "

What recorded information does the Judicial Conduct Investigations Office hold regarding a judges discretion to determine the evidence they are willing to consider and the matters they wish to explore in the context of the degree of 'discretion' and what discretion is considered to be within reason.

2) The online complaint form offers potential complainants a choice of complaint category. One is as follows:
"Judicial decision/case management"

See outcome letter and quote below:

<https://www.scribd.com/doc/291332937/Judicial-Conduct-Complaint-Outcome>

"In summary, you complain that DJ Curtis acted outside his powers and perverted the course of justice by making an order in the claimant's favour despite your 'indisputable evidence that a false and corrupt statement had been made'. You state that DJ Curtis was unwilling to listen to, accept or understand your evidence and you sensed 'he pretended to be out of his depth as a strategy for denying evidence that might, if considered, defeat the claimant's argument'. Further, you state that DJ Curtis was antagonistic and belittling as, in relation to your submissions, he commented that he had listened for half-an-hour to a political diatribe, only 5 minutes of which made sense, and he interrogated you about irrelevant matters concerning council tax instalments.

The concerns put forward in your complaint, and summarised above, do not constitute a case of personal misconduct on the part of a judicial office holder. Your complaint relates to judicial decision and judicial case management. The JCIO is unable to investigate, challenge or question a judge's decision or case handling because these are part of a judge's function and not personal conduct. "

I would like the Judicial Conduct Investigations Office to disclose whatever information it holds that accounts for the anomaly.

3) District Judge Daniel Curtis was complained about to the Judicial Conduct Investigations Office (<http://tinyurl.com/psp22hm>) and the matter of complaint reported as a crime to the police.

The Judicial Conduct Investigations Office considered the complaint did not meet the criterion to be valid, and in a letter (see link below) stated that the complaint did not contain an allegation of misconduct on the part of a judicial office holder.

<https://www.scribd.com/doc/291332937/Judicial-Conduct-Complaint-Outcome>

That was untrue as there were many allegations of misconduct.

4) At what level of seniority within the organisation is this failure known about?

"At what level of seniority within the organisation is the corruption known about, i.e., stating that the complaint does not contain an allegation of misconduct on the part of judicial office holder, when it obviously does."

See complaint:

<https://www.scribd.com/doc/315795203/25-May-2016-Judicial-Conduct-Complaint-Curtis-Redact>

5) Re, "It is not for this office to determine whether or not a Judge has been biased towards one party or another based on their decision. "

Is it not for the Judicial Conduct Investigations Office to determine whether a Judge has been biased, based on the judge's actions (conduct) in coming to his decision, rather than his actual decision?

The appropriate way to challenge his behaviour in that case would not seem to be through the appellate process."

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

The MoJ considers your request to be vexatious and in accordance with section 14(1) of the FOIA, we will not be taking it any further

In determining your request to be vexatious, the MoJ has considered the Information Commissioner's Office (ICO) guidance on vexatious requests. A copy of this guidance can be found on the ICO website via the following link:

<https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

The MoJ considers your request to be vexatious for the following reasons:

Burden on the authority and frequent/overlapping requests:

You have continued to submit a large volume of requests and general correspondence in respect of the issues relating to the complaints you have raised against Judge Curtis, the Judicial Conduct and Investigations Office's (JCIO) procedures and the functions of the Judiciary. These requests overlap considerably in content and accusation, some are submitted within hours of each other or on consecutive days. I consider that to continue to respond to your requests on these topics continues to place an unreasonable burden on the Department and causes a disproportionate amount of time to be spent on your correspondence. The Department is publicly funded and has a responsibility to protect those resources from abuse. It will use the available legislation under the FOIA to do so. Furthermore,

I understand that the JCIO is not the only business area in the Department who are responding to your requests on these and related matters. This places an additional burden on finite Departmental time and resource.

Unreasonable persistence, futile requests, and unfounded accusations:

Section 14 of the FOIA allows the Department to consider the wider interactions with a requester beyond the parameters of the request itself when determining if a request is vexatious. I have considered the multiple requests, both FOIA and normal business correspondence, made in respect of this issue to the JCIO, as well as related correspondence in respect of your matters with Grimsby Magistrates' Court, the Justices Clerk, Judges and Magistrates. You have been informed of the outcome of your complaint in respect of the Grimsby matters from the Advisory Committee and the Judicial Appointments and Conduct Ombudsman, who informed you that your complaint was not upheld. Your most recent correspondence suggests you are trying to escalate matters to the JCIO which have been resolved elsewhere. The entrenched position which you have taken in respect of unsubstantiated accusations of corruption and wrongdoing amongst staff and the Judiciary is unacceptable and the Department has a responsibility to prevent individuals from harassing and insulting its staff and the Judiciary. It is our assessment that you are using the FOIA as a vehicle to reopen matters which have been conclusively addressed elsewhere.

Please note if you continue to submit requests that we determine are related to these matters we will take steps under the legislation to protect departmental resources from further abuse under section 17 of the FOIA.

You can find out more about Section 14(1) by reading the extract from the FOIA 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 FOIA (available at <http://www.legislation.gov.uk/ukpga/2000/36/section/14>).

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.

Yours sincerely

DATA ACCESS AND COMPLIANCE UNIT

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 **within two months of the date of this letter** to the Data Access and Compliance Unit 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.org.uk/Global/contact_us

EXPLANATION OF FOIA - SECTION 14(1) – VEXATIOUS REQUESTS

We have provided below additional information about Section 14(1) 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 14: Vexatious or repeated requests.

- (1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.
- (2) Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

Guidance

Public authorities may sometimes be faced with a requester who sends in request after request, often slightly differently worded, but essentially asking the same question. Sometimes, in doing this, the requester may be trying to vindicate a long-standing grievance against an authority.

Handling such requests can be very resource intensive, in particular where the request is accompanied by a stream of correspondence, detailed representations and comments to which the applicant seeks to get the public authority to respond.

Whether a request is vexatious is determined by the information requested, not the person making the request. Vexatiousness needs to be assessed with reference to all the circumstances of an individual case. However, if a request is not a genuine endeavour to access information for its own sake, but is aimed at disrupting the work of an authority, or harassing individuals in it, then it may well be vexatious.