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Our Reference: [105269]

24 May 2016

Freedom of Information Request

Dear Ms. Taylor,

Thank you for your e-mail of 12 May, in which you asked for the following information from the Ministry of Justice (MoJ):

"Please confirm when DDJ Eyley became appointed as a deputy district judge and the length of his term of office.

List his qualifications and training and if his training is up to date , and which the cases he is qualified to hear .

List the dates he has sat this year and at which courts and the nature of the matter heard , such as family , insolvency , charging orders etc

How many complaints have been received about his conduct."

And

Please can you confirm how many complaints have been made against DDJ Eyley finding the council's quote "tinkered with " statutory demand and bankruptcy petition acceptable , when insolvency forms are prescribed forms and not to be " tinkered with" aka altered to suit the council.

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

I can confirm that the department has considered your request for information, however we consider the request to be vexatious under Section 14(1) of the Act.

Section 14(1) states that the department is not obliged to comply with a request that is vexatious.

In considering your requests for information I have looked at the information commissioner's office guidance in respect of determining vexatious requests which are outlined on pages 7 and 8 of the following link:

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

Section 14 of the Act allows the department to consider the wider interactions with a requester beyond the parameters of the request itself when determining whether a request is vexatious. The request does not have to meet all of the outlined indicators in order to be determined as vexatious.

I consider the following indicators as outlined in the guidance are met in respect of this request.

- Burden on the Authority
- Personal grudges
- Unfounded accusations
- Frequent or overlapping requests.

Your request history with the department relates to requests in respect of a number of members of the judiciary asking for information in respect of their sitting patterns, qualifications, and appointment details. The information clearly serves no purpose other than to continue to vent frustration and further a personal grudge that you appear to have at the decision making of the courts and the Judiciary. From the requests received by the department you have requested information on at least twelve members of the Magistracy and the Judiciary, as well as court staff and other individuals relating to a particular region (Kent).

Your requests accuse individuals of unsubstantiated wrongdoing and the frequency of your requests in respect of the individuals' concerned makes your requests a burden for the department to handle. It is evident that you have an ongoing complaint in respect of matters in the courts and the Department has a responsibility to protect its staff, stakeholders and resources from abuse and will take steps under available legislations, such as the FOIA, to do so.

You can find out more about Section 14(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/14>).

You can also find more information by reading the full text of the Act (available at <http://www.legislation.gov.uk/ukpga/2000/36/contents>).

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: <https://www.gov.uk/government/organisations/ministry-of-justice/series/freedom-of-information-disclosure-log>

Yours sincerely

Chukwuma Uju

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: <http://www.ico.org.uk/>

EXPLANATION OF FOIA - SECTION 40(2) – INFORMATION RELATING TO THIRD PARTIES

We have provided below additional information about Section 40(2) 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 40: Personal Information.

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if—

- (a) it constitutes personal data which do not fall within subsection (1), and
- (b) either the first or the second condition below is satisfied.

(3) The first condition is—

- (a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—
 - (i) any of the data protection principles, or
 - (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and
- (b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

Guidance

Section 40 of the Freedom of Information Act applies to:

- requests for the personal data of the applicant him or herself
- requests for the personal data of someone else (a third party)

Personal data of a third party: Personal data of a third party is exempt under section 40(2) if its disclosure to a member of the public would contravene one or more of the data protection principles and a request must be refused.

The Data Protection Principles:

The data protection principles are a statutory code for the processing of personal data. They are set out in Part I of Schedule 1 to the Data Protection Act.

Three data protection principles require personal data to be:

- fairly and lawfully processed
- processed for specified and lawful purposes
- adequate, relevant and not excessive
- accurate, and kept up to date
- not kept longer than necessary
- processed in accordance with individuals' rights under the Data Protection Act
- kept secure
- not transferred to non-EEA (European Economic Area) countries without adequate protection

The principle most likely to be relevant to the disclosure of information under the Freedom of Information Act is the first principle. This requires personal information to be:

- processed 'fairly'
- processed 'lawfully'
- not processed at all unless one of the 'conditions' for fair processing is met

Processing in this context includes disclosure.

In most cases, personal data will be exempt if disclosure would be 'unfair'. Disclosure of personal data relating to a third party will often breach the fair processing principle if there was a legitimate expectation by a third party that this information would remain confidential.

EXPLANATION OF FOIA - SECTION 44 – PROHIBITIONS ON DISCLOSURE

We have provided below additional information about Section 44 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 44: Prohibitions on disclosure.

(1) Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it—

- (a) is prohibited by or under any enactment,
- (b) is incompatible with any Community obligation, or
- (c) would constitute or be punishable as a contempt of court.

(2) The duty to confirm or deny does not arise if the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) fall within any of paragraphs (a) to (c) of subsection (1).

Guidance

Section 44 applies:

- where there is an existing statutory bar to disclosure
- where disclosure would be incompatible with a European Community obligation
- where disclosure would constitute contempt of court at common law

The Human Rights Act 1998 can be a statutory bar to the disclosure of information.

This exemption overrides the normal right of access to information under the Freedom of Information Act where another enactment otherwise prohibits it. In these cases, not only will the information be exempt, but the public authority will have no discretion to release voluntarily either. If the disclosure would be unlawful (regardless of whether any penalty might result) then the prohibition must be observed. This applies whether disclosure would be a criminal offence, subject to regulatory or civil law enforcement, including public law challenge.

This exemption will include prohibitions both:

- In primary legislation (i.e. Acts of Parliament). For example section 21 of the Local Government Finance Act 1992. The section makes it an offence to disclose or use certain information gathered by HM Revenues and Customs other than for the purpose of valuing property.
- In any sort of secondary legislation made on a statutory basis (e.g. orders, rules, regulations or codes) – for example, part 31.22 of the Civil Procedure Rules, which covers the use of documents disclosed in civil proceedings.