



Mr James
request-597025-3cb0356f@whatdotheyknow.com
VIA EMAIL

6 September 2019

Dear Mr James,

**REQUEST FOR INFORMATION UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT
2002**

I am writing in response to your email, received 14 August 2019, that asked various questions concerning information we had recorded about judicial reviews.

I shall address and answer each of your questions in turn. I have numbered them for clarity.

You asked:

1) *How many judicial reviews were given legal aid funding in the last 3 years?*

In the period April 2016 to March 2019 inclusive SLAB made payments on 1434 cases.

2) *What was the name of each case?*

I confirm that SLAB does hold this information with regards to both the applicant seeking legal aid and with regards to who their opponent was.

However, we consider that we are exempt from disclosing the information regarding peoples' names because the following exemption applies:

Section 38 (1)(b) of the Freedom of Information (Scotland) Act 2002 – the information is personal information.

We consider that this exemption applies because the disclosure of the names of individuals who had applied for legal aid would breach Article 5(1) of the General Data Protection Regulation (GDPR) with regards to transparency, purpose limitation and data minimisation.

And given the number of cases involved (1434) it is not feasible to seek consent from the legal aid applicants for the specific purpose of providing this information for your request. Disclosing the information would therefore put us in breach of Article 21 of GDPR: Right to object to release of information.

I am able to indicate who the opponent organisations were. This information is shown in the data file of case information attached.

- 3) For each, when was legal aid (a) applied for and (b) granted?**
4) For each, what was the costs to the tax payer broken down by solicitors fees, advocates fees and court fees?

Please see the data file attached which lists each case with the information you have asked for. Both fees shown are inc VAT.

Please note the Sheriff Court Fees Order 1997, as amended, provides for the exemption of certain people from court fees¹.

- Article 7(1)(c) exempts any person who is receiving civil legal aid.
- Article 7(1)(e) exempts anyone whose solicitor is undertaking work in a matter of special urgency under regulation 18.

There are therefore no costs recorded for court fees.

- 5) Please provide a copy of the invoices for each.**

For the 1434 cases described above there have been 3463 accounts paid.

To answer this question would require those accounts to be inspected and any personal information to be removed from the invoices in question.

A public authority is entitled to charge for the direct and indirect costs incurred in locating, retrieving and providing information. The Scottish Information Commissioner has agreed that public authorities can charge for the cost incurred in physically redacting a document.

In this case I have estimated that the cost of providing this information would be in excess of the prescribed limit of £600. Section 12(1) of the Freedom of Information Scotland Act (FOISA) provides that in such circumstances we may decide not to supply the information requested and I regret that, in this instance and because of the very high costs involved, we have decided not to do so.

The projected cost has been calculated as follows:

Number of accounts to be inspected = 3463
Average time spent locating, retrieving, redacting and providing invoice information from an account = 15 minutes per account
Hours of time required to inspect = 865.75
Staff cost per hour = £12.60
Total estimated cost = £10,908.45

¹ <https://www.scotcourts.gov.uk/taking-action/court-fees>
<https://www.slab.org.uk/guidance/special-urgency-procedure-for-exemption-from-court-fees/>

Please note public authorities have a duty to provide reasonable advice and assistance to requesters under section 15 of FOISA. This means that, where an authority estimates that the cost of responding to a request will exceed £600, it is good practice for the authority to discuss the request with the requester to find out if their request could be narrowed to bring it under the £600 limit.

Accordingly please could you explain what information you are hoping to obtain from looking at the invoices? I will then see if there is a way in which we can help you without incurring excessive costs.

I hope the information I have been able to provide is of use to you. I attach details about your rights to request a review of this response.

Yours sincerely,

Matt Taylor
Manager of Analytics

Encl.

Your right to request a review of decision

If you are dissatisfied with the way in which we have handled your request for information, you may ask us to review our decision. A request that we review our decision should be made in writing within 40 working days of the date of this letter or, if we have not responded to your request, within 40 days of the date by which we should have responded (that would normally be 20 days after receiving your request).

We will review our decision and tell you the outcome within 20 working days of receiving your request.

If, having done so, you remain dissatisfied, you may ask the Scottish Information Commissioner to review our decision. You must submit your request in writing to the Commissioner within 6 months of first receiving notice about the matter you are complaining about.

The Commissioner will not deal with an application unless SLAB's review process has been used and exhausted - in other words, until you have asked us to review our decision and you are not satisfied with our response or have not received a response within 20 working days of your request.

The Commissioner's contact details are:

The Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS

Telephone: 01334 464610

Fax: 01334 464611

Website www.itspublicknowledge.info

E-mail: enquiries@itspublicknowledge.info

Your appeal can also be dealt with online. The Commissioner has an online appeal service which is available 24/7 and offers requesters real time help and advice about their appeal. This can be accessed at:

www.itspublicknowledge.info/Appeal