



# Ministry of Justice

Mr N Gilliatt  
Via email:  
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Our Reference: FOI: 105900

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Date: 29 June 2016

## Freedom of Information Request

Dear Mr Gilliatt,

Thank you for your email of 12 June, in which you asked for the following information from the Ministry of Justice (MoJ):

- "1. How many times in the financial years 2012/13 to 2015/16 has JCIO been threatened with legal action by another public body?
2. In the same time frame how many pre-action protocol letters have been received by JCIO from another public body?
3. When was the last time another public body took JCIO to judicial review?
4. What is the policy for dealing with legal threats from public bodies within remit for investigation?"

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

I can confirm that the Ministry of Justice (MoJ) does not hold the information that you have requested at items 1, 2 & 4.

If the information was held by MoJ it would have to be held by the JCIO. It may help if I clarify that the information being requested is not held by MoJ because there is no legal or business requirement for MoJ to do so.

Please be advised that the FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. It does not place a duty upon public authorities to answer a question unless recorded information exists. The FOIA duty is to only provide the recorded information held.

Lastly, in response to item 3 I have received confirmation from the Queens Bench Division that the last time a public body took the JCIO to Judicial Review was April 2016.

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 can find out more about information held for the purposes of the Act by reading some guidance points we consider when processing a request for information, attached at the end of this letter.

In addition, 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.

In relation to item 4 this is not a request for recorded information and as such has been handled outside for the FOIA and I can confirm is no policy for dealing with such matters.

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

**Dave Woods**  
**Senior Caseworker**  
**Judicial Conduct Investigations Office**

## 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](mailto: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.gov.uk/Global/contact\\_us.aspx](https://www.ico.gov.uk/Global/contact_us.aspx)

## **EXPLANATION OF INFORMATION HELD FOR THE PURPOSES OF THE ACT**

We have provided below additional information for information held for the purposes of the Freedom of Information Act. We have included some of the guidance we use when considering requests for information. I hope you find this information useful.

### **Is the information 'held' for the purposes of the Act?**

A person may request any information 'held' in any recorded form by a public authority (or held by another on behalf of a public authority).

If the requester is asking for an opinion on an issue or asking for information that is not already held to be created, this is not a Freedom of Information Act request.

### **Information covered by the Act**

All recorded information 'held' by a public authority is within the scope of the Freedom of Information Act. It includes files, letters, emails and photographs and extends to closed files and archived material.

### **Recorded information**

The right of access applies to information recorded in any form. This includes:

- information that is held electronically (such as on a laptop computer or an electronic records management system)
- information that is recorded on paper (such as a letter, memorandum or papers in a file)
- sound and video recordings (such as a CD or videotape)
- hand-written notes or comments, including those written in note pads or on Post-it notes

### **Is the information 'held' under the Freedom of Information Act?**

'Holding' information includes holding a copy of a record produced or supplied by someone else. However, if a public authority only holds information on behalf of someone else, for example a department holding trade union information on their computer system, then that public authority may not have to provide the information in response to a Freedom of Information Act request.

In some cases, it may not be clear whether information which is physically present on your premises or systems is properly to be regarded as 'held' by your public authority, for the purposes of the Freedom of Information Act. Examples include:

- private material brought into the office by ministers or officials
- material belonging to other people or bodies
- trade union material
- constituency material
- material relating to party political matters.