



Disclosure Team  
Ministry of Justice  
102 Petty France  
London  
SW1H 9AJ

Mr P Kernman  
request-585718-cc96506e@whatdotheyknow.com

data.access@justice.gov.uk

19 November 2019

Dear Mr Kernman

**Freedom of Information Act (FOIA) Request – 191027001**

**Thank you for your request dated 27 October in which you asked for the following information from the Ministry of Justice (MoJ):**

**Dear Disclosure Team,**

**Further to my correspondence of 10 September regarding challenging your view that my request did not fall under the Freedom of Information Act 2000 (FOIA) regime.**

**I would argue that my request does fall under the FOIA and the JCIO's initial focus needs to be on whether or not the public authority holds the requested information. Section 84 defines the 'information' a public authority can be asked to provide under the FOIA. It makes clear that it means recorded information held in any form.**

**My request asked if the JCIO was 'aware about the tribunal discovering that the Ministry of Justice had forged documents and if so did it take this into account when investigating a complaint which was later discovered to have involved similar criminal misconduct'.**

**The above effectively comprises two requests and both are valid according to the definition in s.84. The second request although valid arguably may be exempt information if it were held, however, the first categorically would not.**

**The JCIO now holds recorded information in relation to the first request in the form of an email I sent on 29 June 2019. The question should be did the JCIO hold the requested information in any form before 29 June and if it was the information should be disclosed. Whether or not the information is held there is no basis to view that my request did not fall under the FOIA regime.**

**Yours sincerely,**

**P Kernman**

Your request has been handled under the FOIA.

With respect to your specific request - "did the JCIO hold the requested information in any form before 29 June", the MoJ does not hold any information in the scope of your request.

The FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. The duty is to only provide the recorded information held.

The JCIO is a statutory body which supports the Lord Chancellor and Lord Chief Justice in their joint responsibility for judicial discipline. The JCIO's statutory remit is to assess complaints about the personal conduct of judicial office holders. The JCIO cannot look at how a judge has managed a case or look at the judicial decisions made by a judicial office holder, such issues must be addressed through the appeals process.

We cannot consider allegations made against parties to a hearing. Complaints about non-judicial office holders are rejected at the outset.

The JCIO cannot accept direct complaints about tribunal judges. Such complaints must be made to the relevant tribunal president for consideration, before the matter can be referred to the JCIO.

Our remit and procedures are governed by statutory rules and regulations, which can be found on our website at: <https://judicialconduct.judiciary.gov.uk>.

## **Appeal Rights**

If you are not satisfied with this response you have the right to request an internal review by responding in writing to one of the addresses below within two months of the date of this response.

[data.access@justice.gov.uk](mailto:data.access@justice.gov.uk)

Disclosure Team, Ministry of Justice, 10.38, 102 Petty France, London, SW1H 9AJ

You do have the right to ask the Information Commissioner's Office (ICO) to investigate any aspect of your complaint. However, please note that the ICO is likely to expect internal complaints procedures to have been exhausted before beginning their investigation.

Yours sincerely

Nazir Rasul  
Judicial Conduct Investigations Office