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29 July 2020

Dear Mr Ralph

Freedom of Information Act (FOIA) Request – Internal Review 200706002

Thank you for your request received on 06 July 2020 for an Internal Review of FOI 200621002 in which you asked for the following information from the Ministry of Justice (MoJ):

I would like to know the number of Orders for Sale which were granted for the each year between 2015 and 2020.

If possible while complying with the costs limits under the relevant regulations, please further supply the number of the above Orders for Sale which were granted following application by any part of HM Revenue & Customs.

The purpose of an Internal Review is to assess how your FOI request was handled in the first instance and to determine whether the original decision given to you was correct. This is an independent review: I was not involved in the original decision.

The response to your request (200621002) said that, regarding your first question, the MoJ holds the information you have requested but it was exempted from disclosure under Section 12(1) of the FOIA because it estimated that the cost of complying would exceed the FOIA cost limit.

It was further explained to you that where section 12 applies to one part of a request MoJ refuse all of the request under the cost limit as advised by the Information Commissioner's Office. MoJ was therefore not obliged to answer the second part of your request.

You were provided with advice and assistance as to how your request might be refined in order that it might fall within the cost limit. You were advised to consider specifying particular Courts to be included in scope and/or shortening the timescale of your request, although MoJ could not guarantee that a refined request will fall within the FOIA cost limit or that other exemptions might not apply.

After careful consideration I have concluded that this response was compliant with the requirements of the FOIA.

Statutory deadline

The statutory deadline for your request was 17 July 2020 and the response was provided on 1 July 2020. The response was therefore compliant with the timeliness requirements of the FOIA.

Outcome

In your request for an Internal Review you say:-

"I do not believe that the cost of supplying this information is excessive. Until relatively recently, the number of orders for sale for each year was published routinely. The document on the following link says, "In 2010, approximately 510 orders for sale were granted in the County Court." -https://consult.justice.gov.uk/digital-communications/county_court_disputes/results/orders-for-sale-response-ia.pdf Such information will be available in the County Courts case management information systems and a well constructed search process will be able to find the cases with relative ease and without incurring excessive costs."

I have made all best efforts to identify the source of the data that you refer to in paragraphs 1.7 and 1.8 of the document identified but have been unable to do so.

However, I do note that the paper says "In 2010, approximately 510 orders for sale were granted in the County Court", and "some of the 510 orders for sale awarded could also be suspended orders".

In the response to FOI 200621002 it was explained to you that that the HMCTS County Courts case management and management information systems do not hold the information requested by you relating specifically to Orders for Sale granted 2015-2020. You were advised that in order to answer your questions MoJ would have to examine individual case files that are still held in accordance with MoJ Record Retention and Disposition Schedules. The appropriate records to be identified, located with the data requested being retrieved and extracted.

I have confirmed with the HMCTS analysis division responsible for County Court data that there is not an event code specifically for Orders for Sale and therefore any information relating to their issuing, particularly if we are attempting to identify ones associated with HMRC, might only be held in free-format fields within the County Court case management and management information system. Because of their nature, data held in those fields cannot be aggregated to provide FOIA request responses. That was explained to you in the response to FOI 200621002.

It was also explained to you that where Section 12 applies to one part of a request we refuse all of the request under the cost limit as advised by the Information Commissioner's Office. I would add that MoJ is not required to work up to the cost limit of an FOIA request.

I have viewed the cost estimate form associated with this Section 12 refusal and have found it to be reasonable. MoJ do not have to make a precise calculation, only a reasonable estimate.

Finally, Section 16 of FOIA says that "It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it."

You were advised that in County Courts the Record Retention period would normally be for three years after the case completion and it was suggested to you that in any revised request you might wish to consider specifying particular Courts to be included in scope and/or shortening the timescale of your request to less than three years.

In conclusion

I am satisfied that the response you received on 1 July 2020 was correct and provided to you within the statutory time limits that apply to MoJ.

Also, I am content that MoJ met its obligations under Section 16(1) of FOIA which are that:- "It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it."

Appeal Rights

If you are not satisfied with this response you have the right to apply to the Information Commissioner's Office (ICO). The Commissioner is an independent regulator who has the power to direct us to respond to your request differently, if she considers that we have handled it incorrectly.

You can contact the ICO at the following address:

Information Commissioner's Office

<https://ico.org.uk/Global/contact-us>

Yours sincerely

K Smith

K Smith
NE Delivery Director's Office