

13 May 2022

Dear Ms Hogg,

Freedom of Information Act (FOIA) Request – 220412062

Thank you for your request dated 12 April which you asked for the following information from the Ministry of Justice (MoJ):

In line with the Government's wider commitment to transparency it appears to me that there is information that you can disclose. Had you contacted me to explain the situation, as opposed to refusing the request entirely, I would have been happy to refine the request. It appears to me that you can provide the following information

- 1. The names of any entities or individuals under investigation**
- 2. The date on which the investigation commenced**
- 3. The number of prosecutions included in the investigation where an application for costs has been made by APS or any associate. Please note this is the total number of prosecutions, so will include cases where costs have been paid, cases where costs have been refused and cases where an application for costs has been made (even if there has been subsequent withdrawal of the application) but not paid or refused. I only require the total number of cases and not a breakdown of cases by costs category.**
- 4. If the investigation includes any prosecutions where no application for costs has been made please confirm the number of cases. I only require the number of cases and do not need any detail about the defendant or the Court, just the number of cases.**
- 5. The amount of public money the investigation relates to. Please note this is the total of all costs claimed in relation to private prosecutions by APS, so will include cases where costs have been paid, cases where costs have been refused and cases where an application for costs has been made (even if there has been subsequent withdrawal of the application) but not paid or refused.**
- 6. An outline of the matter under investigation by the LAA. The Charity Commission have made a public statement in respect of the matters under investigation and I can see no reason why the LAA cannot make a similar public statement setting out in general terms the matters under investigation. The statement on the Charity Commission's website describes the matter under investigation as**

The trustees' decision making around its private prosecutions

If the trustees have avoided or adequately managed potential conflicts of interest

If there has been any unauthorised direct or indirect private benefit

The trustees' failure to comply with legal obligations in relation to the filing of the charity's accounts and annual returns

Your request has been handled under the FOIA.

I can confirm the MoJ holds some of the information that you have requested.

As explained to you in our previous response of 8 April, there are currently ongoing investigations being undertaken by the Legal Aid Agency (LAA) **and** other public bodies. The MoJ only holds information in relation to any investigations being undertaken by the LAA, which is an Executive Agency of the MoJ.

The MoJ does not hold the data requested at question 4. The LAA's role is confined to the assessment and payment of claims from central funds and therefore the LAA holds no information relating to private prosecutions in which no claim for costs was submitted.

The remaining information held by the MoJ is exempt from disclosure under section 31(1)(c) of the FOIA, because it would be likely to prejudice the administration of justice.

Section 31 is a qualified exemption which means that the decision to disclose the requested material is subject to the public interest test. When assessing whether or not it was in the public interest to disclose the information to you, we took into account the following factors:

Public interest considerations favouring disclosure

- Disclosure of information held by the MoJ would be consistent with the Government's wider commitment to transparency.

Public interest considerations favouring withholding the information

- There is a strong public interest in investigations being conducted impartially and fairly. The LAA's investigation is at a very preliminary stage and the subject, scope and value of the investigation is subject to refinement as further intelligence is gathered. It is important that investigators have space to fully explore matters without fear that their unsubstantiated concerns would be reported in the press or enter the public domain. Such concerns would hinder the efficient running of its own investigation and may unduly influence any parallel investigations being conducted by other public bodies.
- Disclosure about the subject, scope and value of the investigation, at this preliminary stage, would likely impede the LAA's ability to undertake enquiries of a confidential nature.

On balance, I consider the public interest favours withholding the information at the current time.

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

Disclosure Team, Ministry of Justice

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,

Chief Executive's Correspondence and Parliamentary Engagement Team
Legal Aid Agency