

Dragutin Popovic

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Date: 25 August 2017

Dear Mr Popovic,

Freedom of Information Act (FOIA) Request – 113462

Thank you for your request dated 1 August 2017 for an Internal Review of FOI 112888 in which you asked for the following information from the Ministry of Justice (MoJ):

- 1 - Please provide all the recorded information and the list of every court and every court's division which utilise the caseman system to record all the data held in electronic form (records) of each civil proceeding**
- 2 - Please provide all the recorded information concerning what system is used to record all the data held in electronic form (records) of each civil proceeding being issued or dealt with at the Chancery Division**
- 3 - Regardless of the system used by the Chancery Division to record all the data held in electronic form (records) of each civil proceeding please clarify if the Chancery Division's does record every interaction and related information with the parties into the proceedings with the court and its admin department.**
- 4 - Please explain and clarify which member of the court's administration (not the name but role) is authorised to use a Chancery Chambers seal of official court's documents**
- 5- The Ministry of Justice (MoJ) requires all staff to act honestly and with integrity at all times and to safeguard the public resources for which they are responsible. If the court administration at the Chancery Division is informed that a possible or proved fraud has occurred regarding a misuse of the Chancery Chambers seal is the Chancery Division personnel obliged to reports it immediately in line with instructions set in the I Ministry of Justice (MoJ) internal Audit and Assurance Anti-Fraud and Corruption Policy?**

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.

Our original response

Your original request confirmed that some of the information requested is held and provided you with answers to parts 3 and 4 of your request. Parts 1 and 2 were refused under section 21 of the FOIA as the information was reasonably accessible to you by other means. Part 5 was not answered as it did not constitute a request for recorded information.

Statutory deadline

The statutory deadline for your request was 31 July 2017 and the response was provided on 31 July 2017. The response was therefore compliant with section 10(1) of the FOIA.

Outcome

As part of my review, and in the interests of fairness, I have re-examined the original response, specifically the use of section 21, the links to information provided and the refusal to answer question 5. Having conducted my review I have concluded that our original response was compliant with the requirements of the FOIA, an explanation of my decision follows.

Question 1

The original response refused these requests under section 21 of the FOIA and provided you with a link to Courtfinder, which lists all courts in England and Wales. Courtfinder does include both High Court venues, namely, the Rolls Court and the Royal Courts of Justice (RCJ). The response should however have confirmed that all County Court centres across England and Wales, including the Central London County Court, record data using the caseman system. However the High Court (Rolls Court and the RCJ) does not use caseman. Caseman is also not used by any Magistrate Court as it is purely a civil jurisdiction system.

It may also be helpful to explain that the High Court is a jurisdiction and does not dictate a specific court building; although the High Court primarily operates from the RCJ and the Rolls Court, High Court work may be dealt with at a number of sites across the HMCTS estate.

Question 2

This request was also refused under section 21 of the FOIA and a link was provided to the Courts Electronic Filing website, which details the CE system used to record electronic data.

Questions 3 and 4

The original response to question 3 confirmed that not all interactions are recorded onto the CE file system.

The original response to question 4 confirmed that all Rolls Building staff can use the court seal.

Having reconsidered our response I have concluded that these were not a valid requests under the FOIA as parts 3 and 4 of your request did not ask for recorded information held. The FOIA is intended to allow access to recorded information and does not oblige a public authority to create information to answer a request; the duty is to only provide the recorded information held. The answers to these questions should therefore have been provided outside of the scope of the FOIA.

In relation to question 4 I am able to provide further clarification, this is provided here outside of the scope of the FOIA. I can confirm that all operational HMCTS staff at the Rolls Court, irrespective of role or grade, are authorised to use the seal. To address the specific question raised in your request of internal review, I can confirm that security guards are not employees of HMCTS, therefore, would not be authorised to use the seal.

Question 5

This part of your request was not answered as it did not constitute a request for recorded information. I hold this response to be correct; however, outside of the scope of the FOIA I will add that all MOJ staff are subject to mandatory fraud awareness training and are bound by the Civil Service Code of conduct, details of which you can access via the following link: <https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code>

In conclusion I am satisfied that the response you received on 31 July 2017 was correct. However, the original response should have made clear that information provided in response to questions 3 and 4 was given to you outside of the scope of the FOIA.

Your request for internal review also questions the absence of the name of the individual answering the request. The original response was signed off 'Knowledge and Information Liaison Officer, London Regional Support Unit' and I am satisfied that sufficient details were provided to identify where the response originated.

Furthermore, Section 40(2) of the FOIA makes information exempt from disclosure where it constitutes personal data and releasing it would contravene any of the data protection principles of the Data Protection Act 1998 (DPA). The first principle states:

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—

(a) at least one of the conditions in Schedule 2 is met, and

(b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

Individuals, including employees of HMCTS, have a clear and strong expectation that their personal data will be held in confidence and not disclosed to the public under the FOIA. There is no specific requirement for the KILO officer to provide their name when issuing a response and in this instance the officer concerned has chosen to withhold their name, signing the response on behalf of the department.

Further information on the data protection principles is available as follows:

<http://www.legislation.gov.uk/ukpga/1998/29/schedule/1>

<http://www.legislation.gov.uk/ukpga/1998/29/schedule/2>

<http://www.legislation.gov.uk/ukpga/1998/29/schedule/3>

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
Wycliffe House
Water Lane
Wilmslow
Cheshire

SK9 5AF

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

Yours sincerely

KILO & Business Support
HMCTS, SW Regional Support Unit