



Ministry of Justice

Mark Ritchie

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Our Ref: FOI/97117/2015

24 April 2015

Dear_Mr Ritchie,

Freedom of Information Act 2000 (FOIA) – Outcome of Internal Review

Thank you for your Internal Review request dated 2 April 2015 regarding a Freedom of Information request in which you asked for:

“1. Please could you supply me with any MOJ data relating to the retention policy of case files of Crown Courts and if it varies from court to court, then specifically Cardiff Crown Court. Also the disciplinary code for any Court staff who are found to have breached MOJ rules on the retention of case files.

2. Please could you provide me with any MOJ documents that outline the appropriate steps to take for cases that are rejected at the Appeal Court stage.”

The purpose of an Internal Review is to assess how your Freedom of Information 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.

I have reassessed your case and after careful consideration I have concluded that the initial response that was sent to you was compliant with the requirements of the FOIA. An explanation of my decision follows. This is an independent review: I was not involved in the original decision.

Your original request of 24 March 2015 was answered on 1 April 2015, which is within the statutory 20 working days required under the Act. The response considered your request for information and deemed it as a continuous search for legal advice which the Department cannot provide. The response applied Section 14(1) of the Act and determined your request to be vexatious.

As part of my review I have noted your concern on whether the first part of your request should be considered by us as vexatious. On 26 February 2015 you submitted an FOIA request to the London Regional Support Unit asking for the following information:

2. Information on a courts retention policy of data which is crucial to a defendant appealing his or her case. Is there documentation that exists to state that even when a request has been made to obtain the court bundle so a defendant can take his or her case to appeal, this obviously being done well within the time constraints, can a court, specifically Cardiff Crown Court, refuse to hand over that case bundle thus holding onto such data until 7 years after they were requested and then destroy evidence within that bundle and state that they can destroy data as the courts only hold onto information for a 7 years. If you require further clarification on this then please email me or contact me by telephone.

On 6 March 2015, the London Regional Support Unit responded to your request under FOI 96299:

2a. Information on a courts retention policy of data which is crucial to a defendant appealing his or her case.

I confirm that HM Courts & Tribunals Service holds this information, but on this occasion will not be providing it to you as it is already publicly available. The Crown Court Record Retention & Disposition Schedule is available at the following website:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/386751/crown-court.DOC

Section 21 of the Act exempts disclosure of information that is reasonably accessible by other means, and the terms of the exemption mean that we do not have to consider whether or not it would be in the public interest for you to have the information. You can find out more about Section 21 by reading the extract from the Act and some guidance points we consider when applying this exemption, appended to this letter.

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, appended to this letter. You can also find more information by reading the full text of the Act, available at <http://www.legislation.gov.uk/ukpga/2000/36/section/1>.

On 24 March 2015 you submitted a further request to the London Regional Support Unit asking for the following information:

“1. Please could you supply me with any MOJ data relating to the retention policy of case files of Crown Courts and if it varies from court to court, then specifically Cardiff Crown Court.

I consider your FOI 96299 request made on 26 February 2015 and your FOI 96850 request made on 24 March 2015 to be duplicate requests for the same information and therefore engage FOIA Section 14(1) and are deemed vexatious.

On 24 March 2015 you also submitted a request to the London Regional Support Unit asking for the following information:

Also the disciplinary code for any Court staff who are found to have breached MOJ rules on the retention of case files.

I have considered this request together with FOIA requests 95751, 96299 and 96640 you have submitted previously, which have requested information of a similar subject matter and in conclusion I have determined that your request is designed to further your own appeal and therefore engages FOIA Section 14(1) and is deemed vexatious.

Furthermore as part of my review I have noted your concern on whether the second part of your request should be considered by us as a request for legal advice. On reading your request I determine that you are seeking legal advice, which the MoJ is unable to do.

Taking into consideration your FOIA requests of 29 January 2015, 17 February 2015, and 26 February 2015, which were all found to be requests for legal advice. I consider in this case that your request is a continuous search for legal advice, which we cannot provide and which we have informed you of on numerous occasions. Therefore I consider that your FOIA 96850 request of 24 March 2015 engages FOI Section 14(1) and is deemed vexatious.

I would like to reiterate that the Freedom of Information Act is a regime for accessing recorded information, not to further an appeal or a complaint against specific courts, or to obtain legal advice.

Conclusion

After completing this review, I have ascertained that a response was issued to you within 20 working days. I have also ascertained that the Section 14(1) decision reached in relation to all the withheld information is correct. I have therefore judged that the handling of your request and the response you received dated the 1 April 2015 and all the decisions therein are compliant with the FOI Act and are hereby upheld.

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.

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

A handwritten signature in black ink, appearing to read 'Christopher J. Cox'.

Knowledge Information Liaison Team

How to Appeal

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.org.uk/Global/contact_us