



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

Mr Ed Boyce
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data.access@justice.gov.uk

28 May 2019

Dear Sir,

Freedom of Information Act (FOIA) Request – 190506003

Thank you for your request dated 6 May in which you asked for the following information from the Ministry of Justice (MoJ):

Dear Her Majesty's Courts and Tribunals Service,

Please confirm under the FOIA if Shaun Anthony Boylan who is listed on the Certificated Bailiff Register is a county court bailiff/ enforcement agent and if he is listed on any register as working for Equita.

Also confirm if he is known as or is allowed to use Sean or Sion Boylan or Shawn Bowe...n and please provide any other spelling he is known by.

List all inception/ expiry dates he has held a certificate and the name of the court and judge that granted the certificate.

List how many complaints have been made against this bailiff/ enforcement officer and if this is the same Sean Boylan mentioned in Kafagi v JBW Group Ltd, Court of Appeal - Civil Division, May 18, 2018, [2018] EWCA Civ 1157,[2018] WLR(D) 309 before Lord Justice Underhill, Lord Justice Irwin and Lord Justice Singh, who is alledged to have committed various torts on 13 March 2012.

Please also confirm if it is against the law for a bailiff/ enforcement agent to fail to provide their name and company they work for and ID so that it can be checked against the registers and the penalty for failing to do so, and if it is against the law to provide a false name.

Also confirm if any levy or eviction is valid if any of the above are withheld and/ or not complied with as required by law.

**Yours faithfully,
Ed Boyce**

Your request has been handled under the FOIA. For clarity, I have broken your request into five questions which are answered below.

Question 1: Please confirm under the FOIA if Shaun Anthony Boylan who is listed on the Certificated Bailiff Register is a county court bailiff/ enforcement agent and if he is listed on any register as working for Equita.

I can confirm that the MoJ holds the information that you have requested. However, the information is exempt from disclosure under section 21 of the FOIA, because it is reasonably accessible to you. The information, we have previously provided, can be accessed via the following links which you may cut and paste into your browser;

- <https://certificatedbailiffs.justice.gov.uk/>
- <https://www.hceoa.org.uk/members/authorised-members-directory>

Question 2: List all inception/ expiry dates he has held a certificate and the name of the court and judge that granted the certificate.

I can confirm that the MoJ holds the information that you have requested in relation to current certificates. However, the information is exempt from disclosure under section 21 of the FOIA, because it is reasonably accessible to you using the information provided in answer to your first point above.

Any information relating to previous certificates is exempt from disclosure under section 32 of the FOIA because it is held in a court record.

Under section 32(1)(c) information is exempt if it is a document created by a member of the administrative staff of a court for the purposes of proceedings in a particular cause or matter. Section 32 is an absolute exemption and there is no duty to consider the public interest in disclosure.

The reason for section 32 is not to do with the issue of whether information is a public record or not, it is to preserve the courts control over court records. Even if a document may have been made public at the hearing it ceases to be a public record after the hearing and then becomes protected by virtue of section 32. It was not the intention that the FOIA should provide indirect access to court records; the greater public interest was considered to lie in the preservation of the courts' own procedures for considering disclosure.

Question 3: List how many complaints have been made against this bailiff/ enforcement officer and if this is the same Sean Boylan mentioned in Kafagi v JBW Group Ltd, Court of Appeal - Civil Division, May 18, 2018, [2018] EWCA Civ 1157,[2018] WLR(D) 309 before Lord Justice Underhill, Lord Justice Irwin and Lord Justice Singh, who is alledged to have committed various torts on 13 March 2012.

I can neither confirm or deny if the MoJ holds the information that you have requested.

Under sections 32(3) and 40(5) of the FOIA, we are not obliged to confirm or deny whether we hold the information that relates to court records, and to do so would contravene any of the principles set out in Article 5(1) of the General Data Protection Regulation and section 34(1) of the Data Protection Act 2018.

FOI is a public disclosure regime, not a private regime. This means that any information disclosed under the FOIA by definition becomes available to the wider public. If any information were held, confirming this would reveal to the world at large that a complaint had been made against him; this would constitute the personal data of that individual. To disclose this fact would breach the General Data Protection Regulation and/or the Data Protection Act principles; individuals have a clear and strong expectation that their personal data will be held in accordance with data protection laws and not disclosed to the public under FOIA.

The fact sections 32(3) and 40(5) have been cited, should not be taken as indication that the information you have requested is, or is not held by the MoJ. These are absolute exemptions and do not require a public interest test.

Question 4: Please also confirm if it is against the law for a bailiff/ enforcement agent to fail to provide their name and company they work for and ID so that it can be checked against the registers and the penalty for failing to do so, and if it is against the law to provide a false name.

Also confirm if he is known as or is allowed to use Sean or Sion Boylan or Shawn Bowen and please provide any other spelling he is known by.

I can confirm that the MoJ holds the information that you have requested. However, the information is exempt from disclosure under section 21 of the FOIA, because it is reasonably accessible to you. The information can be accessed via the following link that you may cut and paste into your browser:

- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/353396/taking-control-of-goods-national-standards.pdf

The Certification of Enforcement Agent Regulations 2014 sets out the process for issuing a certificate:

- <http://www.legislation.gov.uk/ukxi/2014/421/contents/made>

Question 5: Also confirm if any levy or eviction is valid if any of the above are withheld and/ or not complied with as required by law.

This question is not a request for recorded information, and therefore is not being answered under the FOIA. The MoJ is unable to provide legal advice.

I provide again the following links which you may want to cut and paste into your browser may assist you:

- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/353396/taking-control-of-goods-national-standards.pdf
- <https://certificatedbailiffs.justice.gov.uk/>
- <https://www.hceoa.org.uk/members/authorised-members-directory>
- <https://www.gov.uk/your-rights-bailiffs>

Please note that the MoJ is unable to provide individuals with legal advice, which includes interpretation of the regulations and legislation. You may wish to seek your own legal advice or contact Citizens Advice.

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, MoJ, 10.25, 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

David Hamilton
Civil Procedure and Enforcement Policy