



J Hicks

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request-337xxxxxxxxxx@xxxxxxxxxxxxxxxx.xxx

Our reference: FOI – 105941

27 June 2016

Freedom of Information Request

Dear J Hicks,

Thank you for your email of 31 May 2016, in which you asked for the following information from the Ministry of Justice (MoJ):

Please can you confirm why Sonia Bunyan from Maidstone County Court has sent out a Insolvency form 6.14 with a bankruptcy order from the court, she says this is produced when a bankruptcy order is made.

Can you please provide under the FOI ACT the court procedure rule and insolvency rule that states this is correct?

Shouldn't form 6.14 have been sent to the Chief Land Registrar when a bankruptcy petition was received from the council by the court?

Please also confirm the date she emailed both form 6.14 and the bankruptcy order to the Land Registry. And confirm why she took so long to send them, was this because it was a bank holiday weekend and it would be out-of-time to Appeal?

Can you please state which law allows Maidstone County Court to continually breach the Insolvency rules?

Your request has been handled under the Freedom of Information Act 2000 (FOIA).

I have assessed your request for information, and unfortunately I will not be able to answer it without further clarification. Section 1(3) of the Freedom of Information Act does not oblige us to answer requests where we require further clarification to identify and locate the information requested. We are unable to answer your request unless you provide us with further information.

You can find out more about Section 1(3) by reading the extract from the Act and some guidance points we consider when applying this exemption, attached at the end of 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>.

I am currently unclear as to the exact scope of the information in which you are interested. In order to help ensure that I provide you with the right information, I would be grateful if you could clarify your request.

It may be helpful if I explain that the Freedom of Information Act (2000) gives individuals and organisations the right of access to all types of recorded information held, at the time the request is received, by public authorities such as the Ministry of Justice (MoJ). Section 84 of the Act states that in order for a request for information to be handled as a Freedom of Information (FOI) request, it must be for recorded information. For example, a Freedom of Information request would be for a copy of a policy, rather than an explanation as to why we have that policy in place.

It would appear that your questions are linked to a bankruptcy case at the County Court at Maidstone, and that you have criticisms of the court's administration of that case. You have asked why the court's administration acted in the way you describe. You have also asked about the Insolvency Rules. However, the majority of your questions do not ask for recorded information. For example, you have asked why Insolvency form 6.14 was sent out, but you have not asked for a copy of that form. Please clarify what recorded information you are asking for, and please clarify if you are referring to a specific case.

Before submitting a refined request, you may find it helpful to look at the ICO guidance about how you can to access information from a public body. It includes advice on how you should word your request to get the best result, and a "dos and don'ts" quick reference tool. It's available from <https://ico.org.uk/for-the-public/official-information/>

The link attached provides information about the agencies and organisations of the Ministry of Justice: <http://www.justice.gov.uk/information-access-rights/foi-requests>

Upon receipt of this information I will be in a position to continue with the processing of your request. However, please be aware that we cannot guarantee we will be able to disclose information in answer to a refined request from you. If the recorded information is exempt from disclosure, or does not fall within the FOIA cost limit, we may decline your request.

While I do not prejudge any refined request you wish to make, you may wish to note that information held in court records is usually exempt from disclosure under the FOIA. This is because the greater public interest lies in the preservation of court records for the purposes of those court proceedings. Access to those records is usually determined by the court's access regime, e.g., the Civil Procedural Rules and the Insolvency Rules. You can find more information about this at <http://www.justice.gov.uk/courts/procedure-rules/civil/rules> and <http://www.legislation.gov.uk/ukxi/1986/1925/contents/made>

Lastly, you may wish to note that, if somebody has concerns about the way a case was handled by our administration, it's open to that person to raise their concerns through our complaints handling procedures. Information about this can be obtained from <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/complaints-procedure>

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

South East Regional Support Unit

EXPLANATION OF FOIA – SECTION 1(3) - FURTHER INFORMATION REQUIRED IN ORDER TO IDENTIFY AND LOCATE THE INFORMATION REQUESTED.

We have provided below additional information about Section 1(3) of the Freedom of Information Act. We have included some extracts from the legislation, as well as some of the guidance we use when applying it. We hope you find this information useful.

The legislation

Section 1: General right of access to information held by public authorities.

- (1) Any person making a request for information to a public authority is entitled—
 - (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - (b) if that is the case, to have that information communicated to him.
- (2) Subsection (1) has effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14.
- (3) Where a public authority—
 - (a) reasonably requires further information in order to identify and locate the information requested, and
 - (b) has informed the applicant of that requirement,the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.

Guidance

Is the request clear and specific?

If the request is unclear or vague, the public authority is obliged to provide reasonable assistance to the person who made the request.

This means more than simply telling them that their request is not specific enough, the public authority should take reasonable steps to provide assistance to the requester. The aim should be to assist the requester to refine their request so that it becomes specific enough for the public authority to identify the information they want. Once the original request has been clarified, the public authority can continue to process the request in line with the Freedom of Information Act.