

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 1 May 2008

Public Authority: Ministry of Justice
Address: Selborne House
54 Victoria Street
London
SW1E 6 QW

Summary

The complainant wrote to the Ministry of Justice (formerly the Department for Constitutional Affairs) to request information relating to a case heard at Coventry County Court, including a report which she believed had been produced in response to a complaint she had made about the court's handling of the case. The public authority refused the request under section 32 of the Act. The Commissioner has investigated the complaint and has found that the public authority does not hold a report regarding the complaint about the handling of the court case. The Commissioner is satisfied that any other requested information held by the public authority is exempt under section 32 of the Act. The Commissioner also found that the public authority breached section 10 of the Act in its handling of the request but requires no steps to be taken.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. On 9 September 2005 the complainant wrote to the public authority to request a copy of a report which she believed had been produced in response to a complaint she had made about the handling of a case heard at Coventry County Court, to which she was a party. The public authority had previously supplied the complainant with a copy of a document entitled "schedule of events" which listed

the events surrounding the court case and the subsequent complaint. The complainant's request read as follows:

"I do not understand how you could have reached any conclusions regarding our complaints based purely on the schedule that you sent me. There must have been a comprehensive report from Coventry Court and this is what I requested, not simply a schedule. Could you please provide us (under the Freedom of Information Act) with a copy of the Caseman Report which you would retain on your system."

3. The public authority responded to the request on 3 October 2005. It explained that the requested information was exempt from disclosure under section 32(1)(c) (Court Records). It explained that this section provides an exemption for information contained in any document created by a court or a member of the administrative staff of the court for the purposes of particular proceedings in a particular cause or matter.
4. After some further correspondence the complainant wrote to the public authority again on 24 February 2006 to formally request that it carry out an internal review of its response to her freedom of information request.
5. The public authority presented the complainant with the findings of its internal review on 2 August 2006. At this stage the public authority upheld its decision to refuse to disclose what it referred to as a Caseman record. It explained that a Caseman record is a record created by court staff for the purposes of proceedings. It said that the complainant had previously been supplied with a document entitled "schedule of events" regarding the complaint she had made about the case heard at Coventry County Court. It explained to the complainant that there was no separate "report" compiled into the circumstances surrounding the complaint.

The Investigation

Scope of the case

6. On 2 September 2006 the complainant contacted the Commissioner to complain about the way her request for information had been handled. The complainant asked the Commissioner to consider the public authority's decision to refuse to disclose to her the copy of what she referred to as the "Caseman report".

Chronology

7. On 12 July 2007 the Commissioner wrote to the public authority with details of the complaint. The Commissioner first asked the public authority to clarify what was meant by its reference to the Caseman record. The Commissioner said that it appeared to him that this was a reference to the public authority's case management system and asked the public authority to confirm whether his understanding was correct. The Commissioner asked the public authority to

- provide him with further details of the extent and nature of the information held on the Caseman record.
8. The public authority responded to the Commissioner on 19 September 2007. It explained that the Caseman computer system is used by staff as a means of case management / progression and an efficient way of calling up case details. It said that the data the system contains is integral to the court's paper records for each case and is therefore part of the court record. It added that just because the court is replicating some or all of a file on such a system does not mean that the exemption in section 32(1)(c) no longer applies. The public authority provided the Commissioner with a list of the types of information which it said could be found on the Caseman computer system.
 9. The public authority said that this information clearly constitutes court records and that the exemption in 32(1)(c)(ii) is engaged. It said that it believed that it had acted correctly in withholding the requested information.
 10. The Commissioner wrote to the public authority again on 10 October 2007 for further information about the nature of the information it had withheld from the complainant. The Commissioner said that it appeared to him that the complainant was seeking information regarding the public authority's investigation into her complaint about the handling of the case heard at Coventry County Court; rather than information about the actual court case itself. The Commissioner said that he wanted to establish whether the information that had been withheld from the complainant was information regarding the court proceedings or was information regarding the public authority's investigation into her complaint. The Commissioner invited the public authority's comments on this point.
 11. The public authority responded to the Commissioner on 27 October 2007. It said that it does not hold a report into the complaint about the handling of the case heard at Coventry County Court. The public authority provided some further details about the background to the complainant's request.
 12. It explained that the complainant was a party to a case heard at Coventry County Court and she considered that she had not received the level of service she required from the court. The complainant subsequently entered into a series of correspondence with various tiers of the public authority. The public authority explained that it had conducted an investigation into the issues raised and a letter had been sent to the complainant setting out its conclusions. It said that the complainant had been advised that enclosed with the letter was "...a report on the schedule of events..." It said whilst the schedule of events document was referred to as a report, in reality a report had never been prepared and it suggested that this reference to a report had created some confusion.
 13. It said that upon realising the confusion that had been caused it had written to the complainant to explain that the schedule of events document was the report and that no other report regarding her complaint existed.
 14. On 1 November 2007 the Commissioner wrote to the public authority to say that he accepted that the public authority had not produced a formal report into the

complaint about the handling of the case at Coventry County Court. However, he said that he still needed the public authority to clarify what information was held on the Caseman computer system and if any of the information held dealt with the complaint about the case heard at Coventry County Court.

15. The public authority responded to the Commissioner on 6 December 2007. It provided him with extra information regarding the Caseman computer system which it referred to as a multi-user computer system providing administrative support to staff in the county courts. It said that it is a case monitoring system which only holds information relevant to the specific case. Crucially, it said that any complaints are not held on this system and are filed separately. It said that in light of this the complainant's reference to a Caseman report in relation to her complaint about the handling of the case at Coventry County Court seemed mistaken.
16. The public authority went on to reiterate the matters leading up to the complainant's freedom of information request. It said that the complainant was not happy about the way in which the court case was handled and complained to the public authority at the local level. The public authority responded and referred to a "report" having been prepared in relation to the complaint. As mentioned above, there was no such report apart from the schedule of events document. The complainant then escalated her complaint to another department within the public authority and requested a copy of the report. The public authority said that it responded to all of her letters and provided her with a copy of the schedule of events document as this was the only information relevant to her request.
17. The public authority explained that the complainant then made her formal request for the Caseman report on 9 September 2005. The public authority said that this request was refused under section 32 of the Act because information held on the Caseman computer system is specific information about the case history and therefore constitutes court records.

Findings of fact

18. The complainant was a party to a case heard at Coventry County Court in December 2003.
19. The complainant was dissatisfied with the service she received from the court and made a complaint to the public authority.
20. Prior to making her freedom of information request the complainant had been provided with a document entitled "schedule of events" listing events surrounding the court case and the subsequent complaint. In the accompanying letter this document was referred to as a "report".
21. The public authority has confirmed that the Caseman computer system is used by staff as a means of case management / progression and an efficient way of calling up case details. It said that the following types of information could be found on the system:

“...the case number, names and addresses of parties involved in proceedings, whether they are legally represented, what the claim was for, details of judgements etc including any enforcement proceedings. It also contains notes of any telephone conversations which have been made to the court.”

22. The public authority has said that Caseman computer system only holds information relevant to the specific case and complaints are not held on this system but instead are filed separately.

Analysis

23. A full text of the relevant statutes referred to in this section is contained within the legal annex.
24. The public authority issued a refusal notice within 20 working days of receiving the request in which it explained that the requested information was exempt from disclosure under section 32 of the Act. However it was only subsequently that it informed the complainant that it held no specific report into her complaint about the case heard at Coventry Crown Court. The Commissioner considers this a breach of section 10 of the Act.
25. It appears to the Commissioner that what the complainant really wants is a report which she believes was produced in relation to her complaint about the case at Coventry County Court. The Commissioner agrees with the public authority that confusion may have been caused by its reference to the schedule of events document as a report. However the Commissioner has seen no evidence to suppose that, beyond this document, the public authority holds any further report of any kind. In reaching this decision the Commissioner is mindful of the fact that the public authority responded to all of her complaints and set out its final conclusions in a letter it sent to the complainant along with the ‘schedule of events document’.
26. The Commissioner is of the opinion that the complainant mistakenly referred to ‘Caseman’ in her request, in the belief that the Caseman computer system would contain a report into her complaint. As has been said above, the Commissioner is satisfied that no such report is held. Nevertheless, given that the complainant specifically referred to the ‘Caseman’ computer system in her request, the Commissioner has gone on to consider the extent to which the information held on this system is exempt from disclosure under section 32 of the Act.

Exemption

Section 32 – Court Records

27. Section 32 provides for an exemption from the Act for information which constitutes court records. The public authority has specifically said that section 32(1)(c)(ii) applies. This provides that information is exempt if it is held only by virtue of being contained in any document created by a member of the

administrative staff of a court, for the purposes of proceedings in a particular cause or matter.

28. In reaching his decision the Commissioner has considered the types of information which the public authority has said are held on the Caseman computer system and the purpose for which the system is used by Court staff. Having considered this, he is satisfied that the information on the Caseman computer system was created by a member of the administrative staff of a court for the purposes of proceedings in the court case at Coventry County Court. The public authority has said that the Caseman computer system does not contain details of the complaint as information regarding complaints is filed separately and the Commissioner is satisfied that the only information held on the Caseman system relates specifically to the court case rather than the complaint about the handling of the court case.
29. In order for the exemption to be engaged it must be shown that the information is held "only by virtue" of it being contained within a court record. The Commissioner has seen no evidence to suggest that the information contained in the Caseman computer system is otherwise held by the public authority in any other format or for any other purpose.
30. The complainant has argued that information held on the Caseman computer system should not be withheld because the Civil Procedure Rules allow for the disclosure of court records. The Commissioner rejects this argument. The Freedom of Information Act provides for a general right of access to official information held by public authorities. The Act is not intended to replace existing means of accessing official information. The Civil Procedure Rules do allow for access to court records in certain circumstances but any disclosure of this kind would be outside of the Freedom of Information Act and would be a matter for the court and at its discretion. Indeed, the purpose of the section 32 exemption is to preserve the courts' own procedures and rules for considering disclosure. The complainant's suggestion that the existence of the Civil Procedure Rules somehow nullifies the section 32 exemption is misguided.
31. The Commissioner finds that the information held on the Caseman computer system in relation to the case heard at Coventry County Court is covered by the exemption in section 32 of the Act.
32. Section 32 is an absolute exemption and therefore the Commissioner has not undertaken an assessment of the public interest test.

The Decision

33. The Commissioner's decision is as follows:
 - The public authority dealt with the request for information in accordance with the Act to the extent that it correctly withheld the information on the Caseman Computer System under section 32.

- The public authority breached section 10 of the Act by failing to inform the complainant within 20 working days that no separate report into the complaint regarding the case heard at Coventry Crown Court was held.

Steps Required

34. The Commissioner requires no steps to be taken.

Other matters

35. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern:
36. The complainant asked the public authority to conduct an internal review of its handling of his information request on 24 February 2006. The public authority did not present the findings of the internal review until 2 August 2006. Section VI of the *Secretary of State for Constitutional Affairs' Code of Practice* issued under section 45 of the Act says that it is good practice for a public authority to have a procedure in place to deal with complaints about the manner in which a request for information is handled and that such a procedure should encourage a prompt determination of the complaint. In his *Good Practice Guidance No 5*, the Commissioner has advised that he considers that these reviews should be completed as soon as possible but that that a reasonable time is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take up to 40 days. In this case the public authority took over 5 months to carry out an internal review and whilst recognising that this review was requested prior to the issuing of the ICO guidance (in February 2007), the Commissioner considers this delay to be a significant failure to conform to the Code of Practice.

Right of Appeal

37. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@tribunals.gsi.gov.uk.
Website: www.informationtribunal.gov.uk

If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

Dated the 1st day of May 2008

Signed

**Anne Jones
Assistant Commissioner**

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

Section 10(1) provides that –

“Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.”

Section 32(1) provides that –

“Information held by a public authority is exempt information if it is held only by virtue of being contained in-

- (a) any document filed with, or otherwise placed in the custody of, a court for the purposes of proceedings in a particular cause or matter,
- (b) any document served upon, or by, a public authority for the purposes of proceedings in a particular cause or matter, or
- (c) any document created by-
 - (i) a court, or
 - (ii) a member of the administrative staff of a court, for the purposes of proceedings in a particular cause or matter.”

Section 32(2) provides that –

“Information held by a public authority is exempt information if it is held only by virtue of being contained in-

- (a) any document placed in the custody of a person conducting an inquiry or arbitration, for the purposes of the inquiry or arbitration, or
- (b) any document created by a person conducting an inquiry or arbitration, for the purposes of the inquiry or arbitration.”

Section 32(3) provides that –

“The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of this section.”

Section 32(4) provides that –

“In this section-

- (a) "court" includes any tribunal or body exercising the judicial power of the State,
- (b) "proceedings in a particular cause or matter" includes any inquest or post-mortem examination,
- (c) "inquiry" means any inquiry or hearing held under any provision contained in, or made under, an enactment, and
- (d) except in relation to Scotland, "arbitration" means any arbitration to which Part I of the Arbitration Act 1996 applies.