

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 10 September 2015

**Public Authority:** Ministry of Justice

**Address:** 102 Petty France  
London  
SW1H 9AJ

### Decision (including any steps ordered)

---

1. The complainant made three requests for information to the Ministry of Justice. The Ministry of Justice (MoJ) refused a previous request under section 14 of the FOIA and that refusal was upheld by the Commissioner. The MoJ are now relying on section 17(6) of the FOIA to not respond to these three further requests for information.
2. The Commissioner's decision is that the MoJ has correctly relied on section 17(6) of the FOIA and so was not obliged to respond to the three information requests in question.
3. The Commissioner does not require the MoJ to take any steps.

### Request and response

---

4. On 18 December 2014, the complainant wrote to the MoJ requested the following information:

*"Each Panel has a President, assisted by one or more Vice-Presidents, who has overall responsibility for the work of the Panel and is particularly responsible for the members. The President decides which members should be appointed to hear and decide a particular case. They will not be involved in the decision in a case unless they sit as a member of the tribunal. Their names are given at Annex B.'*

2. *There appears to some ambiguity.*

3. *If the President has 'overall responsibility' yet 'will not be involved in the decision', how can he/she exercise this responsibility?*
4. *For example, if the President is aware the panel members are acting outside their vested powers must she insist they cease and desist or remove them if they refuse to act within their vested powers?*
5. *If the President becomes aware during or after the LVT that panel members have acted outside their vested powers, what means are available for the President to prevent, rectify or otherwise address those abuses of power and position by those he/she takes 'particular responsibility' for?*
6. *Whilst he/she may not 'be involved' in the specifics of a decision in a case, should he/she direct the panel to review its actions in the light of her guidance that they have acted and/or propose acting outside their vested powers?*
7. *If the president appears corrupt and denies that he/she has any responsibility to investigate complaints against the conduct of tribunal members - should she/he become the subject of disciplinary and/or complaints procedures? If so please provide a copy of those procedures and all information on and around the subject.*
8. *Furthermore, if tribunal members refuse to determine matters transferred for LVT determination by a County Court falling within the jurisdiction of an LVT and which have never previously been admitted, paid or determined by any court, tribunal of competent jurisdiction are those tribunal members acting in breach of the terms and conditions of their employment or in contempt of a Court Order?*
9. *If the tribunal's members contempt for the aforementioned Court Order is brought to the attention of the president (and/or a vice president) yet he/she refuses to take any action and/or evades, covers up or otherwise acts arbitrarily is he/she part of a conspiracy to pervert the course of justice? What should the president do when aware that tribunal members disrespect Court Orders? Who should investigate a president's own personal misconduct?*
10. *Are tribunal members and presidents/vice presidents paid to assist resolve disputes between leaseholders and landlords/management companies/managing agents and so forth?*
11. *In the alternative, are the aforementioned paid not to resolve such disputes as placed before them, for example by way of a Court Order, and instead do whatever they like -regardless of their powers and positions - whilst continuing to accept their salary as paid for out of the public purse?*

*12. Please provide all the information held on and around these subjects as disclosed hereinabove in this email."*

5. On 25 December 2014, the complainant wrote to the MoJ requested the following information:

*"I wrote to you on 8 July 2010.*

*You have evaded and/or failed to deal with lawfully or at all inter alia the following complaints and requests for information which were part of the aforementioned correspondence.*

*I have numbered the points and added emphasis to paragraph 5. Otherwise the following is a direct quote:*

*"1. Please confirm that you agree that the administration charges were transferred by the County Court for determination by the Lvt.*

*2. Please also confirm where these administration charges have ever been determined.*

*3. Please confirm that as they have never been determined by the Lvt that you agree that the Lvt's purported determination was not, is not and cannot be complete.*

*4. Please confirm that contrary to the previous nonsense foisted the Lvt do have the power to revisit a matter where they have failed to determine it.*

*5. Please provide all information you hold or are aware of on this subject.*

*6. Please confirm what you and/or Mrs O'Sullivan intend to do to put this right.*

*7. Please confirm you agree it is unreasonable that I am obliged to launch further appeals and spend more money seeking to appeal something that has not yet been determined.*

*8. Further, please confirm EXACTLY why Mrs O'Sullivan does not even consider her FAILURE to determine a matter the County Court ORDERED HER to determine would constitute grounds for allowing permission to appeal?*

*9. Further, please confirm why she is refusing to accept that she has failed to determine a matter the Court ORDERED her to do."*

*Kindly therefore reply in full in accordance with your duties and my rights without further prevarication, evasion or delay.*

*Please provide all the information held on and around the subjects referred to and/or touched on herein."*

6. On 19 January 2015, the complainant wrote to the MoJ requested the following information:

*"1. I note that you have singularly failed to acknowledge, respond or reply to the enclosed emails.*

*2. I therefore register a formal complaint.*

*3. I complain that you have deliberately evaded your duties and infringed my rights as part of an unlawful conspiracy to defraud me:*

*(a) by the unlawful withholding of information I am entitled to; and*

*(b) in the wider context of your conspiracy to cover up the misconduct - including the multiple frauds and conspiracies participated in by the LVT members - O'Sullivan, Kane and Goss and by administrative/managerial staff including Ms McGrath, Ms Mansuri and Mr Frost.*

*4. I therefore require full replies to the enclosed email dated 18 December 2015 by no later than the close of business on 23 January 2015.*

*5. Please also provide a full list of the staff who have access to the enclosed and instant emails and who have failed to act so as to ensure the information requested was provided in accordance with your duties and my rights.*

*6. Please inform precisely what actions have been taken in response to the enclosed emails."*

7. The MoJ did not respond to the requests.

### **Scope of the case**

---

8. The complainant contacted the Commissioner on 18 February 2015 to complain about the failure by the MoJ to respond to his three requests.
9. During the Commissioner's investigation the MoJ explained that it was relying on section 17(6) and had intentionally not responded to the requests.
10. The Commissioner has considered whether the MoJ was correct to not respond in accordance with section 17(6) of the FOIA.

## Reasons for decision

---

11. The MoJ argue that section 17(6) applies in this case as they have previously refused a request under section 14(1) of the FOIA and advised the complainant that they would not respond to any future similar requests regarding HMCTS staff or that relate to his continuous grievance with the department.
12. Section 14(1) of the FOIA states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious. There is no public interest test.
13. Section 17(6) states that a public authority is not required to provide a refusal notice where:
  - "(a) the public authority is relying on a claim that section 14 applies,*
  - (b) the authority had given the applicant a notice, in relation to a previous request for information stating that it is relying on such a claim, and*
  - (c) it would in all the circumstances be unreasonable to expect the authority to serve a further notice under subsection (5) in relation to the current request."*
14. The Commissioner has considered whether each of these requirements is met.
15. Section 17(6)(a) requires that the public authority is relying on a claim that section 14 applies. During the Commissioner's investigation the MoJ confirmed that it is relying on section 14 as it believes the complainant's further requests are vexatious.
16. Section 17(6)(b) requires that the public authority must have previously issued a refusal notice stating that it is relying on section 14. The approach of the Commissioner is that the public authority should also have warned the requester that future similar requests will not be responded to.
17. The Commissioner recognises that in the MoJ's internal review of its response to a request made by the complainant on 12 December 2014, it stated that any future requests for information relating in any way to the complainant's ongoing grievance with the MoJ would not be responded to, in accordance with section 17(6):

*"Additionally, please be advised that under section 17(6) of the Act the MoJ gives notice that we will no longer be responding to Freedom of*

*Information requests which we determine to be in relation to this specific case or further requests which are in any way related to your grievance."*

18. The Commissioner is therefore satisfied that the MoJ informed the complainant that similar requests will not receive a response as section 17(6) will be engaged.
19. Moving to section 17(6)(c), on the issue of whether it would be unreasonable to expect the MoJ to respond to the requests in question the Commissioner has considered whether the MoJ is correct that these requests do relate to the complainant's long running and ongoing grievance with it. He has also considered whether, even if that is the case, these requests nevertheless have some overriding value that means it would be reasonable for the MoJ to respond to them.
20. First, the Commissioner agrees from the wording of the requests and from his previous knowledge of the complainant's dealings with the MoJ that these requests do relate to his ongoing grievance with the MoJ.
21. Secondly, it is the Commissioner's view that the wording of these requests suggests that they are of little worth and certainly contain nothing that would suggest there would be some overriding value in responding to them. This lack of value is particularly evident from the complainant's habit of writing a long string of text and then concluding by asking for all information relating to the subjects of his writings.
22. The Commissioner therefore finds that section 17(6) did apply in this case and that the MoJ was not obliged to respond to the complainant's requests that are covered in this notice.

## **Other Matters**

---

23. The complainant should be aware that the Commissioner is likely to refer back to the reasoning given in this decision notice in regards to any future case where he complains that the MoJ has not responded to requests that relate to his long running grievance with the MoJ.

## Right of appeal

---

24. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

25. 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.
26. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**