

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 August 2016

Public Authority: Ministry of Justice
Address: 102 Petty France
London
SW1H 9AJ

Decision (including any steps ordered)

1. The complainant requested information relating to guidance issued by the Ministry of Justice (MoJ) to public authorities and information relating to MoJ's Head of Disclosure Team. The MoJ refused to comply with the request under section 14(1) of the FOIA.
2. The Commissioner's decision is that MoJ has correctly applied section 14(1) to the request. She does not require any steps to be taken.

Request and response

3. On 9 September 2014, the complainant wrote to the MoJ and requested information in the following terms:

"1. I note the Ministry of Justice issues guidance to other public authorities on compliance with the Freedom of Information and Data Protection Acts. Please provide copies of all such information and documentation.

2. Kindly provide the name, email address and job title of the person you report to (in respect of the head of the Ministry of Justice's Disclosure Team).

3. Kindly provide all information held as to your duties, responsibilities and remit as the MoJ's Head of Disclosure (in respect of the head of the Ministry of Justice's Disclosure Team).

4. Kindly inform of your salary and the length of time you have been employed by the MoJ and of any previous roles within the MoJ or U.K. Government (in respect of the head of the Ministry of Justice's Disclosure Team)."

4. The MoJ responded on 8 October 2014. It stated that it considered the request for information to be vexatious under section 14(1) of the FOIA.
5. Following an internal review the MoJ wrote to the complainant on 12 December 2014. It stated that the initial response was compliant with the requirements of the FOIA.

Scope of the case

6. The complainant contacted the Commissioner on the 12 March 2015 to complain about the way his request for information had been handled.

Background

7. The Commissioner previously received a complaint from the complainant in regards to another request made by him to the MoJ on the 17 September 2015 for information relating to a customer service poster displayed in some courts. The MoJ refused this request under section 14(1) of the FOIA and the Commissioner considered the complaint issuing a decision notice on the 27 January 2015 under reference number FS50558542¹.
8. During the Commissioner's investigation of that previous case, the MoJ provided its arguments for the application of section 14(1) in that case. This notice is based on the reasoning given by the MoJ in that earlier case.

¹ https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1043202/fs_50558542.pdf

Reasons for decision

Section 14

9. Section 14(1) provides that a public authority is not obliged to comply with a request that is vexatious. Consistent with an Upper Tribunal decision which established the concepts of 'proportionality' and 'justification' as central to any consideration of whether a request is vexatious, the Commissioner's guidance for section 14(1)² confirms that the key question to ask when weighing up whether a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
10. Where this is not clear, the Commissioner considers that public authorities should weigh the impact on the authority and balance this against the purpose and value of the request. Where relevant, public authorities will need to take into account wider factors such as the background and history of the request.
11. The Commissioner's guidance makes it clear that section 14(1) can only be applied to the request itself, and not the individual who submits it. An authority cannot, therefore, refuse a request on the grounds that the requester himself is vexatious. Similarly, an authority cannot simply refuse a new request solely on the basis that it has classified previous requests from the same individual as vexatious.
12. As in many cases which give rise to the question of whether a request is vexatious, the Commissioner is aware of a history of previous information requests and various encounters between the parties.
13. Clearly in this case MoJ considers that the context and history strengthens their argument that the request is vexatious. To a large extent, MoJ relies on this history when characterising this request as vexatious.
14. In reaching a decision in this case, the Commissioner has considered the arguments put forward both by the complainant and MoJ as well as the context in which the request was made.

² <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

15. The Commissioner notes the MoJ's previous dealings with the complainant. MoJ has been able to demonstrate that it has engaged to a significant extent with the complainant's correspondence over a number of years. The Commissioner is prepared to accept that, cumulatively MoJ has spent a significant amount of time and resources in dealing with the complainant's information requests, in addition to separate complaints and other correspondence and contacts from the complainant.
16. The first part of the complainant's request asks for copies of all guidance on data protection and freedom of information that the MoJ has issued to other public authorities. The wording of this request is unfocussed and may cover a large volume of information. The Commissioner's view is that this request is less likely to have been considered vexatious had the complainant focussed it on particular information, rather than making such a broadly worded request.
17. It is clear to the Commissioner that the complainant is not satisfied with MoJ and how it conducts itself. In that respect, the Commissioner understands that, over time, the complainant has made a number of complaints to MoJ including about how his previous complaints have been handled.
18. The remaining parts of the request refer to the Head of the MoJ's Disclosure Team. The Commissioner believes that these parts of the request can be accurately characterised as harassing to that staff member. The Commissioner's view is also that, in making these requests, the complainant has shown a tendency to move away from viewing the MoJ as a corporate entity towards targeting particular individuals within that organisation.
19. On the basis of the evidence provided in previous cases, the Commissioner considers that it is reasonable to conclude that the complainant will continue to submit requests, and/or maintain contact with the MoJ regardless of any response provided to the request in question. In this case, the Commissioner also recognises that it was reasonable for the MoJ to be concerned that the complainant would use the requested information in a disruptive way, by contacting the MoJ staff member whose contact details he seeks. The Commissioner is therefore satisfied that, in the context of MoJ's previous and ongoing dealings with the complainant, compliance with the request would result in a disproportionate burden on its resources.
20. Consequently the Commissioner is satisfied that the MoJ correctly relied on section 14(1) of the FOIA.

Right of appeal

21. 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

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

22. 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.
23. 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

Ben Tomes
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