

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 25 August 2016

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

#### Decision (including any steps ordered)

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1. The complainant requested information relating to an online claim system, including with respect to the number of online claims that have been struck out for specific reasons.
2. The Ministry of Justice (MoJ) cited section 12(1) of the FOIA (cost of compliance exceeds the appropriate limit).
3. The Commissioner's decision is that the MoJ has correctly applied section 12(1). She requires no steps to be taken as a result of this decision.

#### Background

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4. Money Claim Online (MCOL) is HM Courts & Tribunals Service internet based service for claimants and defendants<sup>1</sup>. The service allows county court claims to be issued for fixed sums up to £100,000 by individuals and organisations over the internet.

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<sup>1</sup> <https://www.moneyclaim.gov.uk/web/mcol/welcome>

## Request and response

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5. In response to a reply to a complaint, on 7 February 2016 the complainant wrote to the MoJ and requested information in the following terms:

*"1) How many online claims have been struck out for failing to provide a UK address? That is for failing to comply with pd 7 (e)  
2) How many online claims have been struck out for failing to follow the guidance? Which has no practice direction associated with it.  
3) How many online claims have been struck out for errors?  
4) How many online claims are accepted with errors?  
5) If a UK address is of such great importance, why where the MCOL able to serve several documents to me at my French address? From this it appears they do not know their own guidance?  
6) As it is unacceptable to apply to MCOL with a non UK address, why does the online form allow it?"*

6. The MoJ responded in a letter dated 1 March 2016. In relation to points 1-4, the MoJ told the complainant that it was not able to confirm whether it holds the information he had requested. It said that the cost of determining whether it held the information would exceed the costs limit.
7. In relation to points (5) and (6) of his request, the MoJ referred the complainant to an earlier response it had provided to him. It further explained that, in relation to point (6), that Money Claim Online is fully automated and does not validate address details.
8. In refusing to provide the requested information, the MoJ failed to specify an exemption, although in its correspondence the MoJ did make a general reference to section 12(2) of the FOIA.
9. The complainant expressed dissatisfaction with that response on 7 March 2016, offering to search the records himself to avoid cost to the MoJ. He formally requested an internal review on 11 March 2016.
10. The MoJ provided an internal review response on 11 April 2016 in which it clarified its position. In respect of points 1-3 of the request, the MoJ clarified that section 12(1) of the FOIA applies. With regard to point 4, the MoJ advised that the information is not held centrally. It cited section 12(1) in respect of that information also.
11. With regard to points 5 and 6, the MoJ advised that it did not consider that these comprised requests for recorded information.

## Scope of the case

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12. The complainant provided the Commissioner with the relevant documentation on 24 May 2016 to complain about the way his request for information had been handled.
13. He disputes the MoJ's estimate of the cost of compliance.
14. The analysis below considers the MoJ's application of section 12(1) of the FOIA to points 1-4 of the requested information.

## Reasons for decision

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### *Section 12 cost of compliance*

15. Section 12(1) of the FOIA states that:

*"Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit".*

16. This limit is set in the fees regulations at £600 for central government departments and £450 for all other public authorities. The fees regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that section 12(1) effectively imposes a time limit of 24 hours in this case.
17. In correspondence with the complainant, the MoJ told him:

*"Section 12(1) means that the MoJ does hold the information that you have asked for .... However because the cost of complying with your request and providing the figures requested would exceed the limit set by the FOIA, on this occasion the MoJ are unable to provide them to you".*

### *Would complying with the request exceed the appropriate limit?*

18. In estimating whether complying with a request would exceed the appropriate limit, regulation 4(3) states that an authority can only take into account the costs it reasonably expects to incur in:
  - determining whether it holds the information;
  - locating the information, or a document containing it;
  - retrieving the information, or a document containing it; and

- extracting the information from a document containing it.
19. The four activities are sequential, covering the retrieval process of the information from the public authority's information store.
  20. In correspondence with the complainant, the MoJ explained that, in order to provide the requested information within the scope of points 1-3, it would be required to run a system report to identify all cases that had been struck out and then manually check each individual case on the case management system for county court cases - CASEMAN - to identify the reason why the case had been struck out.
  21. The MoJ told the complainant that CASEMAN was a database for the use of MoJ employees who are required to process MCOL claims.
  22. With respect to the scope of his request, the MoJ told the complainant that 4806 cases were struck out on the MCOL system in 2015 and advised that to check each case on the system "*should only take a few minutes*". It provided him with an estimate of the work involved in interrogating those cases in order to respond to points 1-3 of his request:

*"4806 x 2 minutes (excluding time taken to run the report) = 9612 minutes (160.2 hours or 26.7 days)".*
  23. With regards to part 4 of the request, the MoJ advised that such information is not held centrally and that to obtain the information it would need to interrogate all claims lodged and accepted. It said that this would also take it over the section 12 limit.
  24. During the course of the Commissioner's investigation, the MoJ confirmed its estimate of the work involved in respect of its application of section 12(1) to the request.
  25. In its substantive response to the Commissioner, the MoJ repeated what it had told the complainant about points 1-3 of the request, namely that in 2015, 4806 cases were struck out on the MCOL. It also explained:

*"As stated in the IR the data does not have subcategories, therefore HMCTS would be required to run a system report to identify all cases that had been struck out but the data does not have subcategories covering the reasons for the strike out. For each claim, an officer would be required to manually check each individual case on the CASEMAN system to identify the reasons why the case had been struck out".*
  26. Specifically with respect to point (4) of the request, the MoJ told the Commissioner that it would need to check all the details of the claim to

determine whether or not an error existed. With respect to the time this would take, it said:

*"The fact that a claim would have been accepted with an error and not detected would take longer to check..."*

27. When dealing with a complaint to her under the FOIA, it is not the Commissioner's role to make a ruling on how a public authority deploys its resources, on how it chooses to hold its information, or the strength of its business reasons for holding information in the way that it does as opposed to any other way. Rather, in a case such as this, the Commissioner's role is simply to decide whether or not the requested information can, or cannot, be provided to a requester within the appropriate costs limit.
28. From the evidence she has seen during the course of her investigation, and having viewed examples of the type of cases held on the Caseman system, the Commissioner is satisfied that the MoJ has demonstrated that it would exceed the appropriate limit to locate, retrieve and extract the requested information. Section 12(1) does therefore apply and the MoJ was not required to comply with the request.

#### *Section 16 advice and guidance*

29. Section 16(1) of FOIA provides that a public authority is required to provide advice and assistance to any individual making an information request. In general where section 12(1) is cited, in order to comply with this duty a public authority should advise the requester as to how their request could be refined to bring it within the cost limit.
30. In this case, the Commissioner acknowledges that the MoJ advised the complainant that it might be able to answer a refined request within the cost limit, for example if the request was limited to a specific and smaller timescale, and so did comply with the section 16(1) duty.

## Right of appeal

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31. 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)

32. 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.
33. 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**