

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 20 March 2018

**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 civil court proceedings with a specific case reference number. The Ministry of Justice (MoJ) neither confirmed nor denied holding the requested information citing sections 32(3) (court records) and 40(5) (personal information) of the FOIA.
2. The Commissioner has considered the MoJ's application of section 32(3) of the FOIA. Her decision is that the MoJ was entitled to rely on that exemption to neither confirm nor deny holding the requested information.
3. The Commissioner requires no steps to be taken as a result of this decision.

#### Request and response

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4. On 20 February 2017, using the '*whatdotheyknow*' website, the complainant wrote to the MoJ and requested information in the following terms:

*"This freedom of information request is directed specifically to the Ministry of Justice Technology directorate and to the Information Asset Owner (IAO) holding the data relating to all civil court proceedings.*

*1 - Please confirm that you have all the recorded information stored and managed in your secure data centre system managed by the*

*MoJ Technology directorate for the case ref. no. [reference redacted] allegedly issued by the County Court at Croydon.*

*2 - Please confirm that all the recorded information contained in the computerised court record for the County Court case ref. no. [reference redacted] was directly transferred to the MoJ by the administration of the County Court at Croydon who recorded it on to Caseman system and it is now controlled by the MoJ Technology directorate.*

*3 - Please confirm that all the recorded information relevant to the County Court case ref. no. [reference redacted] is in possession of the Information Asset Owner (IAO) as a member of the Operational Directorate and as part of all the data held, relating to all civil court proceedings.*

*4 - Please provide all the recorded information including the direct mailing address and contact details for the MoJ Technology directorate and also for the Information Asset Owner (IAO) dealing with all the data stored for County Court case ref. no. [reference redacted] created by the County Court at Croydon”.*

5. The MoJ provided its substantive response on 5 May 2017. It refused to confirm or deny holding information within the scope of the request, citing sections 32(3) (court records) and 40(5) (personal information) of the FOIA.
6. The complainant wrote to the MoJ on 17 May 2017 expressing dissatisfaction with that response.

### **Scope of the case**

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7. Following earlier correspondence, the complainant contacted the Commissioner on 31 October 2017 to complain about the way his request for information had been handled.
8. He disputed the application of exemptions resulting in the MoJ's refusal to confirm the existence of the court proceedings that are the subject matter of his request.
9. He also raised issues which are outside the remit of the Commissioner's authority.
10. The Commissioner exercised her discretion to accept the complaint without an internal review having been conducted.

11. During the course of the Commissioner's investigation, the MoJ confirmed its application of sections 32(3) and 40(5) of the FOIA in this case.
12. 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 FOIA.
13. The analysis below considers the MoJ's application of section 32(3) of the FOIA to the requested information.

### Reasons for decision

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14. The request in this case is similar to a request for information from another individual which the Commissioner has previously considered. The decision notice in that case (FS50699530) was issued on 29 January 2018<sup>1</sup>.
15. Having considered all the factors applicable to this case, the Commissioner is satisfied that the similarity between the information request in this case and the request in case reference FS50699530 is such that she is able to reach the same decision about the citing of section 32(3) in this case. For brevity, the Commissioner will not reproduce the content of that decision notice here but she has adopted the analysis and concluded that the MoJ was entitled to rely on section 32(3) in response to the complainant's request and was not, therefore, obliged to confirm nor deny whether it held information within the scope of the request.

### Other matters

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16. Regarding its failure to carry out an internal review in this case, the MoJ told the Commissioner:

*"In this case the MoJ did not carry out an internal review as requested. Through investigating why this happened it appears that there had been some confusion over whether an internal review had been carried out and due to an administrative error it was thought to have been done".*

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<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2018/2258197/fs50699530.pdf>

17. The Commissioner cannot consider a public authority's internal review procedure in a decision notice because such matters are not a formal requirement of the FOIA. Rather they are matters of good practice which are addressed in the code of practice issued under section 45 of the FOIA.
18. Nevertheless, she expects the MoJ to ensure that, in the future, its internal review procedure is triggered whenever a requester expresses dissatisfaction with the outcome.

## Right of appeal

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19. 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)

20. 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.
21. 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 .....**

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