

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 February 2018

Public Authority: Ministry of Justice

Address: 102 Petty France
London
SW1H 9AJ

Decision (including any steps ordered)

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 investigated 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.

Background

4. CASEMAN¹ is the MoJ's case management system for county court cases.
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¹ <https://data.gov.uk/dataset/caseman>

Request and response

5. On 15 May 2017, the complainant wrote to the MoJ and requested information in the following terms:

"A. 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 Barnet.

B - 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 Barnet who recorded it on to Caseman system and it is now controlled by the MoJ Technology directorate.

C – 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.

D – 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 Barnet".

6. The request was made via 'whatdotheyknow'.
7. The MoJ responded on 7 June 2017. It confirmed that it held some of the requested information. However, it refused to provide that information, citing section 32(1)(c) of the FOIA (court records) as its basis for doing so.
8. Following an internal review the MoJ wrote to the complainant on 11 July 2017. It revised its position. 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.

Scope of the case

9. The complainant contacted the Commissioner on 3 October 2017 to complain about the way his request for information had been handled.

10. Acknowledging that his request concerned "*the County court case* [case reference number redacted] *which had allegedly been issued by the County Court at Barnet*", he told the Commissioner that he required:

"...the Ministry of Justice to confirm that those proceedings exists [sic] and that their records and all the recorded information relevant to those records are managed under the control of the relevant departments of the MoJ".
11. He also raised issues which are outside the remit of the Commissioner's authority.
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. 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.
14. The analysis below considers the MoJ's application of section 32(3) of the FOIA to the requested information.

Reasons for decision

15. 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 2018².
16. 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 without the need for further analysis.
17. The Commissioner is satisfied 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.

² <https://ico.org.uk/media/action-weve-taken/decision-notices/2018/2258197/fs50699530.pdf>

18. Having reached this conclusion on section 32(3) it has not been necessary for the Commissioner to consider the MoJ's application of section 40(5) to the same information.

Other matters

19. In her guidance on section 32 of the FOIA³, the Commissioner states:

"Where an authority intends to refuse a request under section 32, we would consider it good practice to point the applicant to some other means by which that information may be obtained".

20. In this case, the Commissioner notes that, in its correspondence with the complainant, the MoJ explained about the Civil Procedure Rules. It told him:

"These [the Civil Procedure Rules] are separate and specific regimes for access to information held by courts, designed to give those bodies themselves a measure of control over that information".

21. The Commissioner understands that the MoJ also advised the complainant with respect to making a subject access request, if he was seeking his own personal data, under the Data Protection Act 1998 (DPA).
22. She is therefore satisfied that the requester was provided with advice and guidance about other access regimes – access regimes that, unlike the FOIA, would not involve disclosure to the world at large by way of confirmation or denial - through which he may request the information within the scope of his request.

³ <https://ico.org.uk/media/for-organisations/documents/2014222/section-32-court-inquiry-arbitration-records.pdf>

Right of appeal

23. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

24. 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.
25. 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
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