

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 September 2021

Public Authority: Ministry of Justice

Address: 102 Petty France
London
SE1H 9AJ

Decision (including any steps ordered)

1. The complainant has requested information relating to an amendment of the Civil Procedure Rules (CPR)/ County Court Money Claims Centre (CCMCC).
2. The Commissioner's decision is that Ministry of Justice (MOJ) has correctly cited section 14(2) in response to the request.
3. The Commissioner does not require the public authority to take any steps as a result of this decision notice.

Background

4. On 21 October 2020, the complainant wrote to the MOJ and requested information in the following terms:

"1a) does the County Court Money Claims Centre post court documents to defendants of civil claims by first class post or second class post?

b) if by second class post then where in the civil procedure rules is this permitted?

c) are court documents posted on the same day as the date of issue?

2) does any law or rule other than section 26.3 (7A) of the civil procedure rules at the below link allow for the court to designate or determine that the specified period for a party to comply on 26.3.7a to be 7 working days? Instead of the 7 days as specifically stated."

5. The public authority responded on 16 November 2020 and provided the information requested along with a link where it said parts 1b) and 2 were answered.

6. The complainant then made a further request the same day:

"May I please have all available information and sources about the review and amendment to the CPR cited in response to number 2. Also specific references and sources in the CPR about documents and letters and second class post that you refer to."

7. On 11 January 2021 the public authority responded and stated that it did not hold the information requested. It explained:

"there are no longer recorded documents that give details of the amendment to the CCMCC response time. The CPR was not amended but the process to CCMCC response time was amended via a civil operation review by the civil operations team in 2012."

The CPR gives information on service of documents. The class of postage used are based on individual business decisions."

Request and response

8. On 11 January 2021 the complainant wrote to the public authority in response to its correspondence of the same day and made the following request:

"May I please have all information related to the 2012 civil operations review of the response time you cite in your response."

9. MOJ responded on 26 January 2021 and cited section 14(2). The complainant requested an internal review the same day. MOJ responded on 22 February 2021 and maintained its position.

Scope of the case

10. The complainant contacted the Commissioner on 8 February 2021 to complain about the way his request for information had been handled. In his correspondence to the Commissioner he maintained he was asking for new information as previous responses had not resolved matters.

11. The Commissioner considers the scope of this case to be to determine if the public authority has correctly applied section 14(2) to the request.

Reasons for decision

Section 14(2) – Repeated requests

12. Section 1(1) requires that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

13. However, section 14(2) provides that:

"(2) Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request."

14. In its internal review response of 22 February 2021 MOJ explained that the CPR was not amended. However the process to the CCMCC response time was amended via a Civil operational review by the civil operations team in 2012.
15. Section 14(2) of the FOIA provides that: "Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request." A public authority may only apply section 14(2) to a request where it has either previously;
 - provided the information to the same requester in response to a previous FOIA request; or
 - confirmed that the information is not held in response to an earlier FOIA request from the same requester.
16. In this case MOJ is relying on 14(2) as it has already confirmed that the information is not held in its previous response of 11 January 2021.

17. It explained that the reason the information requested is the same is because the data that was amended via a Civil operational review, is the exact same information it had confirmed was no longer held on CCMCC response times.
18. The not held reply also clarified the CPR themselves had never actually been amended. Instead, the process to CCMCC response time was amended via a Civil operational review. It did not change the fact that recorded information was no longer held.
19. In its submission to the Commissioner, MOJ explained this request was handled by the County Court Money Claims Centre (CCMCC) on behalf of the MoJ. The information was exempt from disclosure as it is not held by the CCMCC. I can confirm that a subsequent internal review upheld this decision on 22 February 2021. I've attached a copy of that response for your reference.
20. It further stated that in its initial response it had explained

"Due to the high volumes received and processed at the CCMCC, a civil operational review of the 7-day time period was undertaken shortly after the CCMCC was founded. The review found that an amendment needed to be added to CCMCC's response time to increase this to 14 days. This amendment considers CCMCC's operational processes and postal requirements to enable a party to have the appropriate amount of time to respond to an order as set out in the CPR."
21. It also stated that a thorough search of CCMCC's electronic shared drive had also been carried out. This shared drive is where all business information, correspondence, guidance and local policies and practices are stored in line with MoJ record and retention policy. Due to the age of this event (2012), it was unable to locate any information in relation to this request as the information was not held.
22. It took further steps to locate this information and spoke to a former operations manager to seek their knowledge and if they had retained any documents from that time. MoJ confirmed, they had no documentation or emails retained from that change or review of the process.
23. However, a staff member was able to recall the issue surrounding the decision to change from seven days to 14 days. This occurred shortly after CCMCC opened as a centralised office, processing all Part 7 claims in England and Wales (as opposed to previously being done at 350 individual courts). It was identified that there was a time delay in processing Direction Questionnaires (Unless Orders) and the timeliness of posting these orders to the relevant parties. The consequence of this was a lack of equal access to justice for both parties as they did not have the full seven days, as set out in the CPR, to respond to the order.

24. Consequently cases could have been incorrectly struck out as a result of not allowing the appropriate time to respond. This was a new issue, specifically for CCMCC as a result of the changes to a centralised way of working and high volumes processed by the centre. It was agreed in the civil operation meeting to move from 7 days to 14 for CCMCC only. It was a change for CCMCC only, the CPR rule remained unchanged as this rule still would have been applicable to practices in other local courts.
25. Finally it confirmed, no documentation or emails have been retained from that time and this practice is still place to date as it is still a requirement.
26. As the information relates to a CPR rule change for CCMCC, it is, understandably, not immediately obvious to anyone outside that environment that the same information could be referred to in more than one way. MOJ attempted to clarify the position but in doing so appeared to suggest the CPR itself was amended when it had not.
27. Having considered all the above, the Commissioner is satisfied that MoJ was entitled to rely on section 14(2) in response to the request as it had previously stated that the information was not held.

Right of appeal

28. 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: 0203 936 8963
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

29. 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.

30. 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

Susan Duffy
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF