

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 March 2023

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

Decision (including any steps ordered)

1. The complainant requested information relating to incidents/accidents for the Old Bailey within a specified timeframe.
2. The MoJ initially considered the information was exempt from disclosure. It revised its position during the Commissioner's investigation and provided the information it holds that falls within the scope of the request. The complainant disputed the amount of information disclosed.
3. The Commissioner's decision is that, on the balance of probabilities, the MoJ does not hold further information within the scope of the request.
4. The Commissioner requires no steps to be taken as a result of this decision.

Request and response

5. On 15 June 2022, the complainant wrote to the MoJ and requested information in the following terms:

"Under the FOI Act, I am seeking the following:

- a copy (anonymised) of the database of incidents/accidents maintained by the HMCTS for the Old Bailey for the calendar year 2021.

I would prefer to receive this information electronically, ideally in its original electronic format.

If you need to clarify anything in this request, please contact me via email".

6. It appears that there was further correspondence between the parties.
7. From the evidence provided by the complainant, the MoJ wrote to the complainant on 20 October 2022. That correspondence referred to a request for information dated 26 August 2022. It described that request for information in the following terms:

"Under the FOI Act, I am seeking the following:

- a copy (anonymised) of the database of incidents/accidents maintained by the HMCTS for the Old Bailey for the calendar year 2021.

I would prefer to receive this information electronically, ideally in its original electronic format."

"a) details of individual incidents/accidents maintained on the HMCTS database for the Old Bailey in the calendar year 2021

b) the number of incidents /accidents recorded on the database for the Old Bailey in 2021?"

Further clarified:

"I'm happy to confine the request to Quarter 4, 2021".

8. The MoJ confirmed it held the requested information but refused to provide it, citing section 38 (health and safety) of FOIA.
9. The complainant disagreed with the grounds for refusal. The MoJ maintained its position at internal review.
10. Following the Commissioner's intervention, the MoJ revisited its handling of the request. It revised its position, disclosing the information it holds, redacted to avoid disclosure of personal information.
11. The complainant remains dissatisfied: he considers that the released information "seems incomplete".
12. The complainant has not disputed the wording of the request, or the clarification of the timeframe, specified in the MoJ's correspondence of 22 October 2022.
13. The following analysis explains why the Commissioner is satisfied, on the balance of probabilities, that the MoJ does not hold further information within the scope of the request.

Reasons for decision

Section 1 general right of access

14. Section 1 of FOIA states 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”.

15. In scenarios such as this, where there is some dispute between the public authority and the complainant about the amount of information that may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities.

16. When, as in this case, the Commissioner receives a complaint that a public authority has not disclosed some or all of the information that a complainant believes it holds, it is seldom possible to prove with absolute certainty that the public authority holds no further relevant information. However, the Commissioner is required to make a judgement on whether further information is held on the civil standard of the balance of probabilities.

17. The Commissioner acknowledges that the complainant considers that the information disclosed is incomplete. However, the complainant has not provided any evidence as to why he considers that the MoJ holds more information within the scope of the request.

18. In its submission to the Commissioner, the MoJ provided details of the searches it had conducted in order to retrieve recorded information within the scope of the request.

19. The Commissioner is mindful of the terminology used in the request, specifically ‘incidents’ and ‘accidents’. He accepts the explanation provided by the MoJ of the searches that were conducted and the search terms used. He is satisfied that the searches were relevant to retrieve any recorded information within the scope of the request.

20. On the basis of the evidence provided to him, the Commissioner is satisfied that, on the balance of probabilities, at the time of the request, the MoJ did not hold further information falling within the scope of the complainant’s request.

Reference: IC-203028-X7G0



21. He is therefore satisfied that the MoJ has complied with the requirements of section 1 of FOIA in this case.

Right of appeal

22. 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

23. 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.
24. 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

**Laura Tomkinson
Group Manager
Information Commissioner's Office
Wycliffe House
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Wilmslow
Cheshire
SK9 5AF**