

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 21 December 2023

**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 from Chester County Courts (which falls under the Ministry of Justice) relating to revenue and profits received over a six-year period between 2017 to 2022 from a named solicitor.
2. The Commissioner's decision is that the Ministry of Justice was entitled to refuse to comply with the request in accordance with section 12(1) of FOIA. The Commissioner also finds that the Ministry of Justice complied with its obligations under section 16 to offer advice and assistance.
3. The Commissioner does not require the Ministry of Justice to take any steps.

#### **Request and response**

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4. On 14 June 2023 the complainant made the following request for information to the Ministry of Justice:

"Please provide as part of a FOI request.

In the last 6 years, how much revenue has been gained by 'Chester County court' direct dealings with Proximo solicitors. (Including the subsidiary trading name of Integral Legal LLP where an "name redacted" (basic solicitor) appears to be CEO)

In the last 6 years, how much net profit has been gained by 'Chester County court' direct dealings with Proximo

solicitors. (Including the subsidiary trading name of Integral Legal LLP where an "name redacted" (basic solicitor) appears to be CEO).

Please supply information for each year, 2017,2018,2019,2020,2021,2022.

Please also supply your DUNS number and the name of the CEO for your for profit corporation."

5. The Ministry of Justice responded to the complainant on 4 July 2023 and issued a section 12 refusal notice. The Ministry of Justice also stated that it did not hold information in relation to part 2 of the request.
6. The Ministry of Justice also offered the following advice and assistance to the complainant: "Although we cannot answer your request at the moment, we may be able to answer a refined request within the cost limit. You may wish to consider, for example, significantly reducing the time scale of your request..."
7. The Commissioner accepted the case for investigation without internal review.

## **Scope of the case**

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8. The Commissioner considers the scope of this case to be to determine if the Ministry of Justice has correctly cited section 12(1) of FOIA in response to the request. The Commissioner has also considered whether the Ministry of Justice met its obligation to offer advice and assistance, under section 16 of FOIA.

## **Reasons for decision**

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### **Section 12 – cost of compliance**

9. Section 12(1) of the FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the "appropriate limit" as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Fees Regulations"). The Ministry of Justice relied on section 12(1) in this case.
10. The appropriate limit is set in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 at £600 for central government, legislative bodies and the armed forces and at £450

for all other public authorities. The appropriate limit for the Ministry of Justice is £600.

11. 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 for Ministry of Justice.
12. Regulation 4(3) of the Fees Regulations states that a public authority can only take into account the cost it reasonably expects to incur in carrying out the following permitted activities in complying with the request:
  - determining whether the information is held;
  - 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.
13. A public authority does not have to make a precise calculation of the costs of complying with a request; instead, only an estimate is required. However, it must be a reasonable estimate. In accordance with the First-Tier Tribunal in the case of *Randall v Information Commissioner & Medicines and Healthcare Products Regulatory Agency EA/2007/0004*, the Commissioner considers that any estimate must be "sensible, realistic and supported by cogent evidence". The task for the Commissioner in a section 12 matter is to determine whether the public authority made a reasonable estimate of the cost of complying with the request.
14. Section 12 is not subject to a public interest test; if complying with the request would exceed the cost limit then there is no requirement under FOIA to consider whether there is a public interest in the disclosure of the information.
15. Where a public authority claims that section 12 of FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of FOIA.

**Would the cost of compliance exceed the appropriate limit?**

16. As is the practice in a case in which the public authority has informed the complainant that it holds the information, the Commissioner asked the Ministry of Justice to provide a detailed estimate of the time/cost taken to provide the information falling within the scope of this request.

17. The Ministry of Justice considers that the cost of complying with the request would exceed the appropriate limit under FOIA. The Ministry of Justice explained that as most of the requested information is not held electronically, it would have to manually review over 9,290 files contained on daily records or fee sheets over 6 years to determine the fee income received at Chester County Court from the named Solicitors over the time span requested by the complainant.
18. In its submission to the Commissioner, the Ministry of Justice stated that it estimated the task would take significantly over 24 hours to locate, retrieve and extract the requested information which would exceed the appropriate limit. It would require an officer to examine:
  - Daily hard copy fee sheets, excel workbooks or Fee Account sheets and cross reference the case numbers allocated against each fee receipt to the actual case records and
  - Once the records were located, further examination would need to take place to identify if that fee income was received from the named solicitors within the scope of the request and the data then extracted and calculated.
19. The Ministry of Justice also confirmed that they had conducted a sampling exercise on the daily sheets for a random day in 2017 (5 sheets examined) and had estimated that it would take 3 minutes to retrieve the sheets, 10 minutes to check case numbers, cross reference, retrieve and identify information in case files and 3 minutes to return files to appropriate filing systems equating to a total of 148,640 minutes or 2477.33 hours required to complete the task (9,290 files X 16 minutes).
20. Even if the task took the Ministry of Justice officer a minimum of 6 minutes per case, it would still far exceed the cost and time limits.
21. As the scope of the request is over a 6-year period, and the work involved in complying with the request would be extensive, the Commissioner considers that the Ministry of Justice has reasonably estimated that the cost of complying with the request would exceed the appropriate limits by a clear and significant margin.
22. Therefore, the Commissioner's decision is that the Ministry of Justice was correct to apply section 12(1) of the FOIA to the request. If one part of a request triggers the cost limit then this applies to the entirety of the request.

## **Procedural matters**

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**Section 16(1) – The duty to provide advice and assistance.**

23. Section 16(1) of FOIA provides that a public authority is required to provide advice and assistance to any individual making an information request where it would be reasonable to do so.
24. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice<sup>1</sup> in providing advice and assistance, it will have complied with section 16(1).
25. In general, where section 12(1) is cited, a public authority should advise the requester as to how their request could be refined to bring it within the cost limit, albeit the Commissioner does recognise that where a request is far in excess of the limit, it may not be possible to provide any useful advice.
26. In this case, the Ministry of Justice in its response of 4 July 2023 suggested ways the complainant may wish to consider refining the request by significantly reducing and narrowing the time frame, which may enable the request to be considered without exceeding the appropriate FOIA cost limit.
27. The Commissioner also notes that the Ministry of Justice provided guidance to the complainant on making clear information requests, as well as providing links to the ICO guidance.
28. The Commissioner is, therefore, satisfied that when applying section 12(1), the Ministry of Justice complied with the requirement under section 16(1) of FOIA to offer appropriate advice and assistance.

**Right of appeal**

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<sup>1</sup> <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

29. 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@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

30. 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.
31. 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 .....**

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