

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 1 February 2017

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

#### Decision (including any steps ordered)

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1. The complainant has requested the identity of the Deputy Chairman of a named Magistrates' Court Advisory Committee and who was said to have dealt with his complaint.
2. The Ministry of Justice relied upon the section 14(1) exemption (vexatious requests) of FOIA in refusing the request.
3. The Commissioner decided that the Ministry of Justice had applied the section 14(1) FOIA exemption correctly. She therefore does not require the Ministry of Justice to take any steps to ensure compliance with the legislation.

## Request and response

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4. On 20 June 2016 the complainant submitted the following request to MOJ via the public whatdotheyknow.com (WDTK) website:

*I would like to know the identity of the Deputy Chairman of the Advisory Committee (name redacted) who in the letter (16/9/2014) is said to have dealt with the complaint.*

5. MOJ refused the request on 15 July 2016 relying on the section 14(1) FOIA exemption. MOJ said that the request was an unreasonable burden on it and that it demonstrated unreasonable persistence on the part of the complainant in making futile requests.
6. Following an internal review, on 9 August 2016 MOJ confirmed its reliance on the section 14(1) FOIA exemption.

## Scope of the case

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7. The complainant contacted the Commissioner on 13 August 2016 to complain about the way MOJ had handled his request for information.
8. The complainant said, by way of background, that there had been no response until 23 February 2016 to a judicial complaint he had made, which was dated 2 September 2014, to the [name redacted] Magistrates' Advisory Committee. A response had only been obtained after he engaged the Judicial Appointments and Conduct Ombudsman (JACO).
9. The Commissioner considered the application by MOJ of the section 14(1) FOIA exemption.

## Reasons for decision

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### Section 14- vexatious or repeated requests

10. Section 14(1) FOIA provides that a public authority is not obliged to comply with a request that is vexatious. Consistent with an Upper Tribunal decision which established the concepts of 'proportionality' and 'justification' as central to any consideration of whether a request is

vexatious, the Commissioner's guidance for section 14(1)<sup>1</sup> confirms that the key question to ask when weighing up whether or not a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.

11. Where this is not clear, the Commissioner considers that public authorities should weigh the impact on the authority and balance this against the purpose and value of the request. Where relevant, public authorities take into account wider factors such as the background, context and history of the request.
12. The Commissioner's guidance makes clear that section 14(1) can only be applied to the request itself, and not to the individual who submits it. An authority cannot, therefore, refuse a request on the grounds that the requester himself is vexatious. Similarly, an authority cannot simply refuse a new request solely on the basis that it has classified previous requests from the same individual as vexatious.
13. In reaching her decision in this case, the Commissioner has considered the arguments put forward by both the complainant and MOJ as well as the context in which the request was made.

*The complainant's view*

14. The complainant told the Commissioner that his request was connected with an issue which had been ongoing since November 2012 and a disputed order made against him by Justices at [name redacted] Magistrates' Court. This had led to an application to the Court to state a case for an appeal to the High Court. He said that his inability to obtain the case stated, despite making numerous attempts, had prevented the appeal from proceeding to the High Court. The underlying issue concerned alleged council tax arrears which the complainant disputes.
15. He said that the root cause of this matter, which had so far spanned over three and a half years, had been the unwillingness and refusal of the court to cooperate, which in some cases had involved staff members lying.
16. The complainant was concerned that some of his correspondence to the Justices' Clerk had not been answered. He said that his letter of 22 April 2014 requesting the production of a Certificate of refusal to state a case

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<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

was never answered. There had been no response until 23 February 2016 to a judicial complaint dated 2 September 2014 to the Advisory Committee which was obtained only after his engaging with JACO. He said that MOJ had claimed that the matter had been dealt with on 16 September 2014 but he had received nothing until 23 May 2016 prompted by the investigation by JACO. He said that the Justices' Clerk's undertaking to respond concerning the matter by 15 April 2016 had never been acted on. He had asked MOJ to disclose the identity of the Deputy Chairman of the Advisory Committee who, according to the MOJ 16 September 2014 letter (the 2014 letter), had dealt with his complaint.

17. When requesting an internal review, the complainant told MOJ that:

*"Labelling my request vexatious/futile, proves that it has a serious purpose with the intention to find out information because the MoJ is obviously abusing section 14(1) of the FOIA to save embarrassment of dealing with the request correctly. ... .*

*Public bodies such as the Ministry of justice should have realised by now that honesty is always the best policy, no matter how much embarrassment is caused. Or, maybe a policy exists that relies on the probability that for every thousand cover-ups only one is exposed by the media and so benefits outweigh the risks.*

*Turning to your spurious statement concerning the 16 September 2014 response to my complaint to the Advisory Committee and its escalation to [JACO] who concluded that the complaint was not upheld. I don't believe you really expect people to be taken in by such claims, as most will know that organisations like JACO are positioned at the taxpayer's expense to merely give the impression that holders of public and/or judicial office are accountable.*

*The evidence pointed obviously to the complaint response being produced purposely for the investigation. The Ombudsman had demonstrably turned a blind eye in order to bury misconduct and protect the judicial holder from the consequences. Your concerns therefore about Freedom of Information associated with the department's responsibility to protect resources from abuse would better be directed toward public money misspent on funding those bogus organisations as a means of faking accountability.*

*To assume that my requests are unreasonable, persistent and futile is simply baseless. It is because of the intransigent way public bodies present themselves that I have been driven to using FOI as a means of attempting myself to identify causes of numerous injustices and stitch-ups I have been subjected to since being*

*exposed to, and feeling under a public duty to highlight which is endemic in public bodies. .... I therefore do not consider it unreasonable or futile for wanting to hold to account (by pursuing the truth) those whose negligence and dishonesty has led to a criminal record and £600+ fine for an offence I'm completely innocent of; ..." .*

18. He told the Commissioner that FOIA was one avenue which entitled a UK citizen to lawful access to information for whatever purpose, and if use of it might assist someone seeking to overcome the MOJ's obstruction of justice, it was reasonable for that avenue to be taken advantage of.

*The MOJ view*

19. MOJ said that the complainant submitted his requests through the WDTK website. Most of his requests related to his own legal matters. They particularly related to his council tax matters and proceedings in a named Magistrates' Court. Other requests had been made regarding specific Judges, and those which had not been directed at specific members of the Judiciary, alleged bias on the part of the investigating authority for judicial conduct matters, the Judicial Conduct and Investigations Office (JCIO).
20. MOJ said that the complainant was seeking to revisit a complaint already dealt with by the Advisory Committee and JCIO, who had not upheld the complaint. MOJ considered it was evident from the repeated FOI requests relating to his cases with the court that he had ongoing issues with the court; there were two connected formal complaints progressing through the courts.
21. MOJ considered that this and other information requests by the complainant imposed a considerable burden on it. MOJ said that the complainant had submitted a frequent high volume of correspondence comprising FOI requests, general correspondence and complaints. There had been a total of 24 relevant requests over a 12 month period. Nearly every request had been met with an appeal. All related to similar themes concerning the complainant's litigation matters or were about his grievances with particular members of the Judiciary.
22. MOJ said that the complaint to the Advisory Committee had been investigated, and responded to on 16 September 2014 (a letter the complaint says he did not receive until February 2016). MOJ said that the complainant had escalated that complaint to the JACO, which had considered it but it had not been upheld. MOJ considered that there was no merit in disclosing the name requested as the complaint had been fully investigated by an independent body and rejected. MOJ saw the

complainant's use of this FOIA request as a way to prolong his correspondence in respect of his complaints.

23. MOJ said that regardless of the decisions issued, explanations provided or guidance given, the complainant had not changed the frequency, style, tone or scope of his correspondence with it. He had continued to submit a large volume of requests and general correspondence in respect of these issues. MOJ had explained to him that FOIA was not the correct regime to pursue his ongoing concerns about judicial decisions but to no avail. Frequently where correspondence had not been responded to immediately by the Magistrates' Court, he had submitted the same request, labelled as an FOIA request, shortly thereafter. This created double handling and imposed an additional burden on MOJ.
24. MOJ believed it was unlikely that any response it provided on these matters would alter the frequency of requests or provide an outcome that could satisfy what the complainant hoped to achieve from his concerns. Each request simply kept MOJ in extended and extensive correspondence about matters which had been addressed elsewhere or should have been. As such, the content of the request was vexatious.

*The Commissioner's decision*

25. The Commissioner has noted that the genesis of this and the complainant's other information requests to MOJ was his concern about the outcome of his court proceedings. These are matters that have to be addressed through the appropriate channels and cannot not be resolved through FOIA requests.
26. The Commissioner has taken into account that the complainant considers that the requests he has been making have a serious purpose and value. From the correspondence she has seen, it is clear to the Commissioner that the complainant is not satisfied with MOJ and how it conducts itself.
27. The present request is for the name of a judicial office holder. There is no apparent serious purpose or value to the wider public in disclosure of the information sought in the substance of this request. There is no evidence of wrong doing by the individual and the complainant has not suggested, in his correspondence with the Commissioner and with MOJ, that the information has value for the public or even for himself. The complainant is pursuing a personal matter which is of little or no benefit to the wider public.
28. The Commissioner has seen that the effect of the frequent information requests and other correspondence from the complainant has been to impose a significant burden on MOJ and its staff. The context and

history of the request suggested to her that a response to this request was likely to lead to further communications and more requests for other information on related matters from the complainant with a further consequential burden on MOJ staff.

29. The Commissioner recognises that public authorities must keep in mind that meeting their underlying commitment to transparency and openness may involve absorbing a certain level of disruption and annoyance. The burden on MOJ in this matter arises principally from the resources and staff time that it has spent on addressing the complainant's information requests.
30. Although there was apparently a delay in his receiving it, the complainant has now seen the 2014 letter. The issues it raised have been considered by the JACO. It follows that the complainant is attempting to reopen an issue which only affects him and which has already been comprehensively addressed by MOJ and has received independent scrutiny by the JACO who found against the complainant.
31. In this request, and in his other correspondence with MOJ, the Commissioner has noted that the requestor has taken up an unreasonably entrenched position and has shown no inclination to compromise on his position. She has also seen, in this and in other requests to MOJ, that the complainant is targeting his requests towards particular employees or office holders against whom he appeared to adopt some personal enmity.
32. The Commissioner was concerned at the tone of the complainant's correspondence with MOJ officials which went far beyond the level of criticism that MOJ and its employees should reasonably expect to receive. Some of the complainant's comments imply malpractice and seemed to the Commissioner to have been intended to cause annoyance and offence.
33. The complainant told the Commissioner that FOIA entitled him to access to information for whatever purpose, and it was reasonable for him to use FOIA requests to overcome what he saw as MOJ obstructing justice in his matters.
34. FOIA provides fundamental rights to the public to request access to recorded information held by public authorities. However it should not be used to vent dissatisfaction with matters which have already been, or are still in the process of being, dealt with elsewhere. The Commissioner found that, in making his request, the complainant has continued to pursue his matters long after they have been adjudicated upon and dismissed and has therefore been unreasonably persistent.

35. In the light of her analysis of this matter, the Commissioner decided that the request had been inappropriate and was an improper use of FOIA. Responding to it would be likely to cause MOJ disproportionate and unjustified disruption. She therefore decided that the request was vexatious and that MOJ had acted correctly in applying the section 14(1) FOIA exemption to it.



## Right of appeal

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36. 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)

37. 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.
38. 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** .....

**Jon Manners**  
**Group Manager**

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