

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

### **Decision notice**

**Date:** 21 August 2023

**Public Authority:** Northern Ireland Courts and Tribunals Service

**Address:** [Informationaccessnicts@courtsni.gov.uk](mailto:Informationaccessnicts@courtsni.gov.uk)

#### **Decision (including any steps ordered)**

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1. The complainant requested from Northern Ireland Courts and Tribunals Service (NICTS) information regarding the costs for an MP. NICTS confirmed that it does not hold the information requested.
2. The Commissioner's decision is that, on the balance of probabilities, NICTS does not hold the requested information. Therefore, the Commissioner does not require NICTS to take any steps as a result of this decision.

#### **Request and response**

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3. On 14 March 2023 the complainant wrote to NICTS and requested information in the following terms:  

"As a result of cases in the Magistrates court and civil court, I am now quantifying the costs for my MP.

I hereby request, under Freedom of Information, the costs to the Magistrates Court and the Civil court of these cases."
4. On 23 March 2023 NICTS responded and stated it does not hold the requested information.
5. On 24 March 2023 the complainant asked NICTS for an internal review.

6. On 14 June 2023 NICTS provided its internal review response and upheld its original position that it does not hold the requested information.

## **Reasons for decision**

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7. This reasoning covers whether, on the balance of probabilities, NICTS holds the information requested.

### **Section 1 – Information held/not held**

8. Section 1 of FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information within the scope of the request, and if so, to have that information communicated to him.
9. The public authority is not obliged to create or acquire information in order to satisfy a request.
10. The Commissioner's role when determining whether a public authority has or has not complied with section 1(1) of FOIA, is limited to determining whether it is more likely than not that the public authority has provided all the recorded information it holds. The Commissioner is not required to challenge the accuracy or the adequacy of the recorded information a public authority does (or, in some cases, does not) hold. This is because the terms of FOIA only relate to the provision of information as it is recorded, regardless of its accuracy or validity.
11. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
12. NICTS informed the complainant that for the purposes of FOIA it does not hold the requested information. It explained this is because NICTS, in the context of administering the Northern Ireland Courts, does not have a business requirement to record costs for individual cases.
13. In its submission to the Commissioner, NICTS reiterated that it does not hold or record costs for individual court cases. It said it has no business or statutory requirement to record costs per case in the context of their role to administer the Northern Ireland Courts.

14. NICT explained "organisational budgeting which incorporates administrative support for NI Courts and Tribunals is undertaken by business area, and where applicable, the court tier/type of tribunal and venue." NICTS directed the Commissioner to further information about NICTS business and budgeting which is published in its annual report and accounts for 2021/22<sup>1</sup>. NICTS noted to the Commissioner, the annual report and accounts for 2022/23 had just been laid in the NI Assembly Office, and would be published in due course. NICTS also informed the Commissioner that Legal Aid costs if applicable, may be requested from the Legal Services Agency.

## **Conclusion**

15. Having viewed the correspondence on this case, the Commissioner accepts that NICTS provided the complainant with a response of the reason why the information was not held. The Commissioner notes the complainant disputes NICTS does not hold the information, and she maintains that they do hold it. Based on the complainant's correspondence, she is sceptical about public services in Northern Ireland, including the courts and she questions how they budget.
16. The Commissioner sees no reason to doubt the explanation by NICTS. Therefore, on the balance of probabilities, he accepts NICTS's position that it does not hold any recorded information within scope of this request. The Commissioner's conclusion is NICTS complied with section 1(1) of FOIA.

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<sup>1</sup> <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/2021-22-nicts-annual-report-and-accounts.pdf>

## Right of appeal

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17. 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)

18. 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.
19. 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

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