

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 November 2024

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

Decision (including any steps ordered)

1. The complainant has made a series of requests relating to particular court orders, as well as the identity of, and oaths taken by, judges who sit in Courts in the North East of England. The Ministry of Justice ("MOJ") relied on section 14(1) (vexatious requests) of FOIA to refuse the requests.
2. The Commissioner's decision is that the requests were vexatious and therefore the MOJ was entitled to rely upon section 14(1) of FOIA to refuse them.
3. The Commissioner does not require the MOJ to take any further steps.

Request and response

4. On 9 May 2024, the complainant wrote to the MOJ and requested information in the following terms:

"Please provide and advance the full names of Judges confirmed and signed in Gateshead standing under their Oath of Allegiance as set out in the Promissory Oaths Act 1868, section 4; In particular full names of Judges confirmed and signed in Gateshead: County Court at Gateshead"

5. Also on 9 May 2024, the complainant wrote to the MOJ and requested information in the following terms:

- “ 1. Please clarify whether the official name is “County Court at Newcastle Upon Tyne”, or rather “County Court, Newcastle upon Tyne”, or even different from both of these.
2. Please clarify which jurisdiction the County Court at Newcastle Upon Tyne has and/or is exercising.
3. Please clarify which jurisdiction the County Court, Newcastle upon Tyne has and/or is exercising.
4. Is it not correct that since 1984 there is only one County Court, and the official name in any particular venue is supposed to be “County Court at...”?
5. Please clarify which is the official name of the County Court at a particular place/venue/county/borough/etc. which has its jurisdiction in accordance with the doctrine of separation of powers, i.e. in accordance with the Bill of rights 1688/1689.”

6. Again on 9 May 2024, the complainant wrote to the MOJ and requested information in the following terms:

- “1. Please provide and advance the full names of fee-paid members of the judiciary who in the course of their duties occasionally sit at the County Court at Gateshead.
2. And please clarify which of these fee-paid members of the judiciary sitting at the County Court at Gateshead are confirmed and signed standing under their Oath of Allegiance as set out in the Promissory Oaths Act 1868, section 4.
3. And please clarify whether only those standing under their Oath of Allegiance can lawfully preside in/over procedures at the County Court at Gateshead.”

7. On 13 May 2024, the complainant wrote to the MOJ and requested information in the following terms:

“Please provide and advance the following information:

1. Has the Crown Court at Newcastle Upon Tyne made a Restraining Order in accordance with rule 40.2 Civil Procedure Rules (in particular in accordance with rule 40.2(2)(b) and rule 40.2(1)(a)) on the 7th day of December 2023?

2. Has the Crown Court at Newcastle Upon Tyne issued a Restraining Order in accordance with rule 40.2 Civil Procedure Rules (in particular in accordance with rule 40.2(1)(a) and rule 40.2(2)(b) on the 7th day of December 2023?
 3. Regarding which land has such Restraining Order been made and issued?
 4. Which judge or other officer of the court has made and issued such Order for Possession on the 7th day of December 2023?
 5. Has such Restraining Order, made and issued in accordance with part 40 Civil Procedure Rules, been validly served?
 6. Has no forgery falling under section 9 Forgery and Counterfeiting Act 1981 been involved in the making and/or issuing of Restraining Order on the 7th day of December 2023?
 7. Under which jurisdiction has such Order been made and issued on the 7th day of December 2023?
 8. What is the official name of the court in which such Restraining Order has been made?
 9. Who is the Applicant and which representative with rights of audience has represented the Applicant applying for such Restraining Order?
 10. For which land, and in which court, and with which evidence has the Applicant made any application for a restraining order on or before the 7th day of December 2023?
 11. Has no forgery falling under section 9 Forgery and Counterfeiting Act 1981 been involved in the making of such application?
 12. Please clarify the difference between a Courtroom-decision/Room-decision and valid order.
 13. I hereby request a copy of such Restraining Order, and/or the number/reference of such Restraining Order made and issued in accordance with the Civil Procedure Rules, and in accordance with the supremacy of the law of the land."
8. Also on 13 May 2024, the complainant wrote to the MOJ and requested information in the following terms:
- "1. Please provide and advance the full names of District Judges Sitting in Retirement confirmed and signed in Newcastle Upon Tyne standing

- under their Oath of Allegiance as set out in the Promissory Oaths Act 1868, section 4;
2. In particular full names of Judges Sitting in Retirement confirmed and signed in Newcastle Upon Tyne, and in Gateshead: County Court at Newcastle Upon Tyne, and County Court at Gateshead;
 3. Please provide and advance the full names of District Judges Sitting in Retirement confirmed and signed in Newcastle Upon Tyne and in Gateshead, standing under any oath at the County Court at Newcastle Upon Tyne, and at the County Court at Gateshead.
 4. Please provide and advance the full names of District Judges Sitting in Retirement in the course of their duties sitting at the County Court at Newcastle Upon Tyne, and sitting at the County Court at Gateshead.
 5. Please clarify which oath District Judges Sitting in Retirement are required to take in order to be able to lawfully administer justice and preside in/over procedures in or at the County Court.
 6. Please clarify whether District Judges Sitting in Retirement are still bound by the Oath of Allegiance which they had to take to become District Judges, i.e. before the time they started to sit in retirement.
 7. Please clarify in how far any administration of justice or presiding or sitting by a District Judge Sitting in Retirement can be considered lawful administration of justice as guaranteed by law and constitution (e.g. Lord Denning, 1974, Att.-Gen. v. Timesnewspaper).
 8. Please clarify which jurisdiction District Judges Sitting in Retirement are exercising.
 9. Please clarify whether District Judges can exercise the territorial jurisdiction of the United Kingdom or of England.
 10. Please clarify whether District Judges can exercise any other jurisdiction than the so called 'voluntary jurisdiction'?"
9. On 14 May 2024, the complainant wrote to the MOJ and requested information in the following terms:
- "Please provide and advance the following information:
1. Has the County Court at Newcastle Upon Tyne made an Injunction Order in accordance with rule 40.2 Civil Procedure Rules (in particular in accordance with rule 40.2(2)(b) and rule 40.2(1)(a)) on the 27th day of July 2023?

2. Has the County Court at Newcastle Upon Tyne made an Injunction Order in accordance with rule 40.2 Civil Procedure Rules (in particular in accordance with rule 40.2(2)(b) and rule 40.2(1)(a)) on the 27th day of July 2023?
3. Has District Judge J Gribble made and issued an Injunction Order in accordance with rule 40.2 Civil Procedure Rules (in particular in accordance with rule 40.2(2)(b) and rule 40.2(1)(a)) on the 27th day of July 2023?
4. Which District Judge confirmed and signed in Newcastle Upon Tyne and standing under their Oath of Allegiance as set out in the Promissory Oaths Act 1868, section 4, has made and issued such Injunction Order in accordance with the Civil Procedure Rules?
5. Has such Injunction Order, made and issued in accordance with Part 40 Civil Procedure Rules, been validly served?
6. Has no forgery falling under section 9 of the Forgery and Counterfeiting Act 1981 been involved in the making and/or issuing of Injunction Order on the 27th day of July 2023?
7. Under which jurisdiction has such Order been made and issued on the 27th day of July 2023?
8. I hereby request a copy of such Injunction Order made and issued in accordance with the Civil Procedure Rules, and in accordance with constitutional principle of the rule of law.”
10. On 22 May 2024 the MOJ provided a combined response which covered all six of the above requests. The MOJ stated that it considered the requests to be vexatious and therefore refused them under section 14(1) of FOIA.
11. Following an internal review the MOJ wrote to the complainant on 20 June 2024. The internal review considered the same six requests as the initial response dated 22 May 2024, as well as one further request which the complainant had submitted on 4 April 2024. The MOJ apologised for mistakenly having not responded to it previously. The wording of the further request was as follows:
 - “1. Has the County Court at Newcastle Upon Tyne made an Order for Possession in accordance with rule 40.2 Civil Procedure Rules (in particular in accordance with rule 40.2(1)(a) and rule 40.2(1)(b)) on the 3rd day of March 2022?
 2. Has the County Court at Newcastle Upon Tyne issued an Order for Possession in accordance with rule 40.2 Civil Procedure Rules (in

particular in accordance with rule 40.2(1)(a) and rule 40.2(1)(b)) on the 3rd day of March 2022?

3. Regarding which land has such Order for Possession been made and issued?
 4. Which Judge or judge or other officer of the court has made and issued such Order for Possession on the 3rd day of March 2022?
 5. Has such Order for Possession in accordance with part 40 Civil Procedure Rules been validly served?
 6. Has no forgery falling under section 9 Forgery and Counterfeiting Act 1981 been involved in the making and/or issuing of Order for Possession on the 3rd day of March 2022?
 7. Who is the Claimant and which representative with rights of audience has represented the Claimant applying for such Order for Possession?
 8. I hereby request a copy of such Order for Possession, and/or the number/reference of such Order for Possession made and issued in accordance with the Civil Procedure Rules."
12. The internal review outcome found that all seven requests were vexatious.
 13. On 21 May 2024, the complainant wrote to the MOJ again and requested information in the following terms:

"Please provide and advance the full names of Judges confirmed and signed in Sunderland standing under their Oath of Allegiance as set out in the Promissory Oaths Act 1868, section 4;
In particular full names of Judges confirmed and signed in Sunderland: County Court at Sunderland."
 14. The MOJ responded on 17 June 2024. It refused the request, citing section 14(1) of FOIA as its basis for doing so. It also stated that, in accordance with section 17(6) of FOIA it will not send further refusal notices in respect of requests relating to this topic.
 15. Following an internal review the MOJ wrote to the complainant on 19 July 2024. It upheld its reliance on section 14(1) of FOIA to refuse the request.

Scope of the case

16. The complainant contacted the Commissioner in July 2024 to complain about the way their requests for information had been handled.
17. The Commissioner considers that the scope of his investigation is to determine if the MOJ was entitled to rely on section 14(1) of FOIA to refuse all of the 8 requests detailed above.

Reasons for decision

Section 14(1) – vexatious requests

18. The following analysis considers whether the requests were vexatious.
19. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
20. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s guidance on section 14(1)¹ states, it is established that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
21. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
22. However, the Commissioner recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
23. The emphasis on protecting public authorities’ resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) (“Dransfield”)². Although the case was subsequently appealed to the

¹ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/section-14-dealing-with-vexatious-requests/>

² <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.

24. Dransfield established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
25. The four broad themes considered by the Upper Tribunal in Dransfield were:
 - the burden (on the public authority and its staff);
 - the motive (of the requester);
 - the value or serious purpose (of the request); and
 - any harassment or distress (of and to staff).
26. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. It stated:

“all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA” (paragraph 82).

The MOJ's view

27. The MOJ explained that it considers the requests to be a manifestly unjustified, inappropriate or improper use of a formal procedure. In addition, it asserted that the public interest is not furthered by addressing the requests.
28. The MOJ further explained that many of the questions posed by the complainant across the various requests are not questions that it could respond to under FOIA in any event - many of them are not requests for recorded information and are of little wider benefit to the public. In particular the MOJ highlighted that questions about the legal basis of court orders are not suitable for handling under FOIA as it cannot comment on why or how a Judge made an order.
29. The MOJ also detailed that it had previously responded to various other requests submitted by the complainant, which were asking for the same or similar information. However, it considers that the purpose of the requests are to pursue court matters other than through the court and are, therefore, a manifestly unjustified, inappropriate, and improper use of the FOIA legislation.

30. The MOJ also concluded that the requests were vexatious in the context of the number of questions submitted by the complainant relating to the same theme, and it considers that dealing with vexatious requests such as these takes valuable resources away from delivering services and answering legitimate requests for information.

The complainant's view

31. The complainant argues that the conduct by the MOJ in its handling of their requests for information is unacceptable, unlawful and contrary to their duties under FOIA, and the lack of transparency and openness is not comprehensible nor acceptable.
32. The complainant claims that the requested information is of crucial importance and relevance to both individuals and the public, stating:

“The disclosure of whether the information is being held is important for the complainant as, if it is being held by the public authority, may concern the complainant's person.”
33. The complainant states that their requests are concise and clear, but the MOJ tries to re-define them; inasmuch as no assessment in terms of law was asked for, only disclosure of the requested information.
34. The complainant considers it unacceptable that the MOJ refuses to even confirm whether it holds the requested information, and that it tries to find pretexts in order to avoid disclosing information without providing case-specific reasons.
35. The complainant points out that the MOJ has previously provided information in response to similar requests, and they therefore argue that the questions of arbitrariness and discrimination arise from the inconsistent approach now taken to refuse the current requests.
36. The complainant further argues that the refusal goes against the principle of open justice, as information about High Court Justices is being published online, but not District Judges. Therefore the only way to obtain the information is by request under FOIA to the MOJ. The complainant considers that there is no reason why High Court Justices are being made known to the public, but why District Judges should not be made known to the public.

The Commissioner's decision

37. The Commissioner is keen to stress that in every case, it is the consideration of whether the request itself is vexatious, rather than the person making it.

38. In reaching a decision on whether these requests engage section 14(1) of FOIA on the basis that they constitute a disproportionate, manifestly unjustified, inappropriate or improper use of the legislation, the Commissioner has considered the information provided to him to balance the purpose and value of the request against the detrimental effect on the MOJ.
39. The Commissioner considers that the requests are an attempt to challenge the authenticity or lawfulness of particular court orders and/or those responsible for issuing such orders. There are proper avenues available directly via the courts for those seeking to challenge court matters, therefore the Commissioner is satisfied that seeking to raise those challenges via requests under FOIA instead is a clear and obvious improper use of the legislation.
40. Whilst the Commissioner does not necessarily consider that complying with these requests alone would place an overly significant burden on a public authority as large as the MOJ, he does recognise that the requests are vexatious when considered in the context of the aggregated burden of dealing with the pattern and frequency of related requests submitted by the complainant.
41. The Commissioner further considers that any response provided to the requests would not satisfy the interests of the complainant or lead them to the outcome they are seeking, which would in turn be likely to generate further correspondence or requests and a continuation of the pattern already demonstrated.
42. The Commissioner acknowledges that public authorities must keep in mind the underlying commitment to transparency and openness when responding to requests. However he is satisfied that there is no wider public interest in the information sought by these requests. The Commissioner is further satisfied that any information disclosed in response to these requests, or often answers to questions that clearly do not constitute valid requests for recorded information under FOIA, would only serve the private interests of the complainant rather than holding any value to the wider public.
43. In the circumstances of this case, the Commissioner finds that the MOJ was entitled to rely on section 14(1) of FOIA to refuse the requests due to them being vexatious.

Right of appeal

44. 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

45. 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.
46. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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