

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 October 2015

Public Authority: Attorney General's Office
Address: 20 Victoria Street
London
SW1H 0NF

Decision (including any steps ordered)

1. The complainant has requested information regarding applications for contempt against media organisations under the Contempt of Court Act 1981. The Attorney General's Office applied section 12. The complainant did not complain about the application of section 12, but did complain that the Attorney General's Office had not provided him with enough advice and assistance under section 16 (the duty to provide advice and assistance).
2. The Commissioner's decision is that the Attorney General's Office did provide enough advice and assistance and has therefore not breached section 16 of FOIA.
3. The Commissioner does not require the Attorney General's Office to take any steps as a result of this decision notice.

Request and response

4. On 31 October 2014 the complainant submitted a request for information:

"I wish to know the following information regarding applications for Committal for Contempt of Court against Media organisations, both newspapers and other publishers, and broadcasters since the coming into force of the Contempt of Court Act 1981.

1. Does HM Attorney-General's Office keep records of all of the applications that have been made under the former Order 52 RSC and CPR schedule 1 Order 52 RSC, and currently CPS Part 81?

- 2. If so, how far back to these records go and to what date does HM Attorney-General's Office retain these records?*
 - 3. If so, how many applications have been made by HM Attorney-General and his predecessors 's [sic] for Contempt of Court against Media organisations and their personal, both newspapers and other publishers, and broadcasters since the coming into force of the Contempt of Court Act 1981?*
 - 4. What are the names of the media organisations and personnel and the respective dates of the various applications that have been made by HM Attorney-General and his predecessors's [sic] for Contempt of Court against Media organisations, both newspapers and other publishers, and broadcasters since the coming into force of the Contempt of Court Act 1981?*
 - 5. What are the verdicts of the Divisional Court and the Court of Appeal and the House of Lords and the Supreme Court in respect of the various media organisations and personnel regarding the various applications that have been made by the HM Attorney-General and his predecessors's [sic] for Contempt of Court against Media organisations and their personal [sic], both newspapers and other publishers, and broadcasters since the coming into force of the Contempt of Court Act 1981?"*
5. The Attorney General's Office responded on 1 December 2014. It stated that it was applying section 12 (cost limits) to the request as compliance would exceed the costs limit. It also explained that it may be able to answer a refined request within the cost limit and suggested the complainant might want, for example, to narrow his request to a specific period of time. On 30 December 2014 the complainant requested an internal review of the way the AGO had handled his request.
 6. On 28 January 2015 the AGO carried out an internal review. It upheld its application of section 12.

Scope of the case

7. The complainant contacted the Commissioner on 8 March 2015 to complain about the way his request for information had been handled. He explained that he was not complaining about the application of section 12, but was dissatisfied with the advice and assistance provided by the AGO in its response.
8. The Commissioner considers that this is a complaint about the AGO's duty to provide advice and assistance duty under 16 of the FOIA.

Reasons for decision

9. Section 16 of FOIA states that:

"(1) It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.

(2) Any public authority which, in relation to the provision of advice or assistance in any case, conforms with the code of practice under section 45 is to be taken to comply with the duty imposed by subsection (1) in relation to that case."

10. Where a public authority claims that section 12 of the 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.
11. Paragraph 14 of the section 45 code of practice says that the authority should consider providing an indication of what, if any, information could be provided within the costs limit. This allows the applicant to choose how to refine the request to successfully obtain a more limited piece or section of the requested information.
12. The complainant submitted a request on 31 October 2014. In the AGO's response it advised him that compliance with the request would exceed the appropriate cost limit (in this case £600) and therefore it was not obliged to comply with his request. The AGO suggested that he might want to refine his request by, for example, narrowing his request to a specific period of time.
13. The AGO also explained that this would be treated as a new request and might be subject to exemptions.
14. The Commissioner asked the AGO to explain why it did not provide the complainant with any detail regarding a specific period of time in order to bring any refined request under the cost limit.
15. The AGO explained that the complainant had requested information for a time period of 33 years. The only way it could have provided any specific time periods would have been to carry out a search exercise, which would have exceeded the cost limit. Without carrying out the necessary search, the AGO could not have provided the complainant with reliable advice regarding a specific period of time.

16. The AGO also pointed out that the complainant had acted on its advice and submitted a narrowed down request on 27 December 2014, which it responded to and was able to disclose some information.
17. The Commissioner has considered the AGO's explanation about the advice and assistance it provide under section 16. He is satisfied that, given the time span the original request of 31 October 2014 covered – ie, 33 years - the AGO could not have provided a specific time span which would have brought a refined request within the cost limit.
18. The Commissioner also notes that the complainant acted on the AGO's advice and refined his request and has not complained about that disclosure.
19. The Commissioner is satisfied that the AGO has not breached section 16 of the FOIA.

Right of appeal

20. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

21. 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.
22. 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
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