

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

### **Decision notice**

**Date:** 13 August 2024

**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 information about lawful court seals. The Ministry of Justice ("MoJ") refused to comply with the request, citing section 14(1) (vexatious requests) of FOIA.
2. The Commissioner's decision is that the request was vexatious and therefore the MoJ was entitled to refuse it in accordance with section 14(1).
3. The Commissioner does not require the MoJ to take any further steps.

#### **Request and response**

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4. On 21 October 2023, the complainant wrote to the MoJ and requested information in the following terms:  
  
"Kindly supply me any and all recorded information and copies of any policies, licenses, legislation, training manuals et al that pertain and/or contain recorded information on:  
  
a) All information on the standard creation of a Court Seal that makes it lawful to use?  
b) All information the Court Seal must contain when it is ordered by the court for the court seal to be made for the courts use?"

- c) All information on how to check to see if the seal has been applied correctly?
- d) All information on who is certified and authorised to apply a court seal to a court instrument?
- e) All information on who can authorise or certify someone to apply a court seal to a court instrument?
- f) All recorded information on Court Seals ever being counterfeited and/or used to commit fraud?
- g) All information on the misuse of court seals period?

For further clarification on why I ask for this information, is it may help me with the clarification I need on the following points:

- 1) What information, written details and examples do you hold on and pertaining to a Court Seal that a court would lawfully use to seal a court document, including but not limited to an Order and a Warrant?
  - 2) What pictorial examples do you hold of a Court Seal that a court would lawfully use to seal a court document?
  - 3) What information and examples do you hold for court documents that are deemed to require to be sealed by the court of law?
  - 4) What information or examples do you hold on all the types of court documents deemed to require the seal of the court to make them lawful?
  - 5) What information, examples and records do you hold on counterfeit, falsified and fake court seals?
  - 6) Is a Court Seal required to have the date stamp contained within the court seal, yes or no?
  - 7) What information, examples and records do you hold on any Court Instruments being used fraudulently without a Lawful Seal of the Court or by a counterfeit, falsified and fake court seal?
  - 8) What information do you have on the authorisation and permission that certifies, clarifies or qualifies a person to be allowed to apply a Court Seal to a Court Instrument?
  - 9) Are the Seven Principles of Public Life, "also known as the Nolan Principles", that is on the Gov.UK website legally binding on the Ministry of Justice principal and agents, and are they within any employment contracts or training courses, legislation, codes, memorandums, that the Ministry of Justice employees would be given or would have been told or shown?"
5. The MoJ responded on 17 November 2023. It refused the request, stating that its position of "vexatious" detailed in previous responses to the complainant about this matter still stands. The MoJ also cited section 17(6) of FOIA, confirming that it will no longer respond to the complainant on requests connected to this subject matter.

6. The complainant requested an internal review on 18 November 2023, to which the MoJ had not provided an outcome by the time at which the complainant brought their concerns to the Commissioner.

## Reasons for decision

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### Section 14(1) – vexatious requests

7. 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.
8. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s updated guidance on section 14(1)<sup>1</sup> 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.
9. 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.
10. 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.
11. 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”)<sup>2</sup>. Although the case was subsequently appealed to the Court of Appeal, the UT’s general guidance was supported, and established the Commissioner’s approach.
12. 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 and distress.

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<sup>1</sup> <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

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

13. The four broad themes considered by the UT 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).
14. 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**

15. The MoJ explained that, whilst it acknowledges that FOIA is generally considered to be applicant-blind, the decision in Dransfield makes clear that public authorities are entitled to take into consideration any correspondence within the 'wider context of dealings' with the requester. Therefore, it believed that it was crucial to consider the broader context and motives for the request.
16. The MoJ detailed its considerations of the value and purpose of the request. It stated that the complainant is a prolific correspondent, highlighting that its records show they have made 17 requests or internal review requests since October 2021 (as far back as the MoJ's systems record). However, the oldest of those requests alludes to previous requests and responses which the MoJ no longer has on record, so the true figure would clearly be higher.
17. The MoJ explained that its log of requests show that correspondence between itself and the complainant is typically lengthy, repetitious and overlapping in nature. In responding to the complainant, the MoJ often has to separate out the various points that require a response from amongst the general and discursive narrative provided.
18. The MoJ confirmed that the majority of the requests relate to HMCTS. From the correspondence provided it appears that the complainant is not happy with a court decision and, as such, is trying to find a weakness or flaw to avoid complying with that decision. The MoJ provided numerous extracts from the complainant's correspondence and requests which it asserts demonstrate this conclusion. For example –
- “I require the knowledge and transparent disclosure by you for the confirmation and clarification of the crime where there are Summons/letters being sent out to people through the Royal Mail by

public servants, (operating in the private/secret) withinside the Public Buildings known as a Court and that these public servants are counterfeiting the court's authority by pretending to be the court of record, operating in the private/secret, where there are no records on the courts computer system of the court case making it a phantom court case, therefore sending out counterfeit summons letters to appear before a phantom court for the purpose of fraudulently deceiving people of their property by a kangaroo court?"

"Evidence of the proof for the service of the proceedings for the said court case that are issued by the court, what is the correct procedure for obtaining the remedy for this breach of procedure with no due process when the police are refusing to help stop and correct these wrongs?"

"Supply me with the unambiguous and unequivocal answers to "ALL" my points above, while under your common law duty to be open and transparent adhering to the seven principles of public life, under penalty of perjury and full commercial liability by 4pm 14<sup>th</sup> of October 2023."

19. The MoJ continued that it appears evident that the complainant's motive is fuelled by a private interest. Whilst that fact alone is not necessarily an issue, when considering the value and serious purpose of the requests alongside the public interest in disclosure of the requested information, the private interests of the complainant carry little weight unless they coincide with a wider public interest.
20. The MoJ also highlighted that there are separate and specific regimes for challenging court decisions via the relevant appeals process. It continued that attempting to use FOIA as an alternative route to challenge a decision is a misuse and abuse of the Act, for the complainant's own personal interests and apparent personal enmity against HMCTS and the MoJ.
21. The MoJ also set out its considerations relating to the burden imposed by handling these requests. It explained that many of the complainant's requests, and the very many questions contained within them, lack clarity and purpose, or are repetitions; taking up many hours of work and resources. Whilst the application of section 12 (cost of compliance) of FOIA had been considered, given the continuous targeting of HMCTS, and accounting for the wider background behind the nature and suspected motive of the requests, the MoJ argues strongly that it is entitled to say 'enough is enough', making reference to the Dransfield UT decision (paragraph 11).

22. The MoJ advised that it has previously responded to numerous requests from the complainant, disclosing some information, explained what constitutes a valid request under FOIA and applied exemptions where appropriate. However, taking the complainant's history of requests and correspondence into account, the MoJ asserts that the complainant will not be satisfied with any response it provides and will continue to submit futile requests, imposing a disproportionate and unjustified level of disruption and continuing burden on the MoJ and its work to carry out its core functions.
23. The MoJ expanded on this, explaining the exercise of identification of the aspects of the various items of correspondence which were considered to be FOIA requests, was alone a significant piece of work involving the detailed review and extraction of relevant passages from the extensive material received from the complainant. The time and effort taken to interpret the complainant's requests and identify the most appropriate legal regime with which to formulate responses, if any, has been a highly time-consuming task. This work has included a number of detailed conversations between the disclosure team and policy colleagues, with outreach to operational and legal colleagues, which the MoJ considers is disproportionate given that the FOIA process itself is being abused.
24. The MoJ explained that the detriment caused by dealing with these requests is essentially that of wasted resources. The latest request again lacks clarity and needs refinement, which can only be dealt with through further protracted correspondence with the complainant, whose communications have consistently demonstrated an entrenched position, making of demands, and general ignoring of directions.
25. The MoJ stated that it is apparent that the impact of continuing to deal with the complainant's requests on these subject matters has become too great. The oppressive burden on the MoJ, to continuously review and respond to unreasonable FOIA requests, impacts on the availability of the subject matter experts within the MoJ team to respond to any other work requests. This would not represent fair or effective use of public money and creates an adverse impact on the services it must provide to other customers, including answering legitimate FOIA requests.
26. The MoJ concluded by advising that it has tried to be as helpful as possible to the complainant, having repeatedly provided advice and assistance and information outside of FOIA. It has also clearly informed the complainant that the Nolan Principles do not apply to civil servants. They apply to appointed or elected officials, not employees. Civil servants are bound by the Civil Service Code. The MoJ considers that if it continues to respond to these types of requests, it would imply that

this is acceptable, and would only serve to damage the reputation of the legislation itself.

### **The complainant's view**

27. The complainant stated that their questions were polite and precise and were not intended to be in any way vexatious.
28. The complainant also stated that the information they are requesting is in the interest of the public and public importance.

### **The Commissioner's decision**

29. In cases where a public authority is relying on section 14(1), it is for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.
30. 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.
31. In reaching a decision on this request, the Commissioner has considered the information provided to him to balance the purpose and value of the request against the detrimental effect on the public authority.
32. Whilst the Commissioner does not necessarily consider that complying with this request alone would place an overly significant burden on a public authority as large as the MoJ, he does recognise that the request is vexatious when viewed alongside the complainant's previous pattern of requests and the aggregated burden of dealing with the complainant's overall correspondence.
33. The Commissioner also recognises that it is common for a potentially vexatious request to be the latest in a series of related requests submitted by an individual. The greater the number of requests received, the more likely it is that the latest request may be considered as vexatious. This is because the collective burden of dealing with the previous requests, combined with the burden imposed by the latest request may mean that a tipping point has been reached, rendering the latest request vexatious.
34. The Commissioner notes that this particular request is in fact the third time the complainant has submitted a request for virtually identical information, only slightly re-framing the questions and wording each time. The timeframe from submitting the first version of the request to the current version which is the subject of this Decision Notice was only

33 days, with the first and second versions of the request also being refused in accordance with section 14(1) and section 14(2) respectively.

35. Whilst the Commissioner acknowledges that public authorities must keep in mind the underlying commitment to transparency and openness when responding to requests, especially in situations where the requested information may be of interest to the public, he is satisfied that due to the nature of the complainant's previous requests, this request does appear to be the latest attempt to use FOIA in an improper way. Primarily for the complainant to have access to information, or often answers to questions that do not constitute valid requests under FOIA, for their own private interests rather than accessing information which may be of wider public interest.
36. In the circumstances of this case, the Commissioner concludes that the MoJ was entitled to rely on section 14(1) of FOIA to refuse the request due to it being vexatious.

## **Other matters**

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37. Whilst FOIA does not set a statutory timeframe by which a public authority must provide the outcome of an internal review, the section 45 FOIA Code of Practice states that internal reviews should normally be completed within 20 working days. However, if an internal review is complex, requires consultation with third parties or the relevant information is of a high volume, public authorities may need longer than 20 working days to consider the issues and respond. In these instances, the public authority should inform the applicant and provide a reasonable target date by which they will be able to respond to the internal review. It is best practice for this to be no more than an additional 20 working days.
38. The Commissioner notes that the MoJ failed to provide the complainant with an internal review outcome, despite writing to the complainant on 18 December 2023 to inform them that it was extending the time required to provide the internal review until 19 January 2024. The Commissioner considers this failure to provide any internal review as poor practice.
39. Whilst it does not form part of the Commissioner's decision on whether the MoJ was entitled to refuse the current request for information, the Commissioner considers it appropriate to highlight the MoJ's reference to relying on section 17(6) of FOIA to no longer respond to further requests for information from the complainant relating to this subject matter.



40. Section 17(5) of FOIA usually requires a public authority that wishes to refuse a request as vexatious to issue a refusal notice, stating that fact, within 20 working days of the request being received.
41. However, the exception to this rule is contained in section 17(6) of FOIA which allows a public authority to not issue a refusal notice if it considers the request in question is vexatious, has refused a previous related request from that person as vexatious and, in all circumstances, it would be unreasonable to issue a further refusal notice.
42. The Commissioner takes this opportunity to remind the complainant that continued improper use of the legislation in relation to the subject matters outlined in the MoJ's refusal notice of 17 November 2023, may result in them receiving no response to, or refusal of, their request in accordance with section 17(6) of FOIA. The Commissioner recommends that, should the complainant choose to submit any further requests for information to the MoJ in the future, they should take into consideration both the advice already provided by the MoJ regarding proper use of the legislation and what constitutes a valid request, as well as the detailed guidance about the use of FOIA which is available on the ICO website<sup>3</sup>.

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<sup>3</sup> <https://ico.org.uk/for-the-public/official-information/>  
<https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/>

## **Right of appeal**

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

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

44. 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.
45. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Carolyn Howes**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
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