

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 March 2016

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

Decision (including any steps ordered)

1. The complainant requested a copy of the Global Address List (GAL). The Ministry of Justice (MoJ) refused this request as vexatious under section 14(1) of the FOIA.
2. The Commissioner's decision is that the MoJ correctly applied section 14(1) to the request. He does not require any steps to be taken.

Request and response

3. On 26 August 2014, the complainant wrote to the MoJ and requested the following information under the FOIA:
"Thank you for your eventual response. I repeat the request for the GAL or Global Address List."
4. The MoJ responded to the complainant's request on the 23 September 2014 and refused it as vexatious under section 14(1) of the FOIA.
5. The complainant requested an internal review on the 8 November 2014. The MoJ responded with the internal review outcome on 12 December 2014 and upheld the refusal under section 14(1).

Scope of the case

6. The complainant contacted the Commissioner on 12 March 2015 to complain about the refusal of his information request. The complainant indicated that he did not agree that his request was vexatious.

Reasons for decision

Section 14

7. Section 14(1) 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)¹ confirms that the key question to ask when weighing up whether a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
8. 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 will need to take into account wider factors such as the background and history of the request.
9. The Commissioner's guidance makes it clear that section 14(1) can only be applied to the request itself, and not 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.
10. As in many cases which give rise to the question of whether a request is vexatious, the Commissioner is aware of a history of previous information requests and various encounters between the parties.
11. Clearly in this case, MoJ considers that the context and history strengthens their argument that the request is vexatious. To a large extent, MoJ relies on this history when characterising this request as vexatious.
12. In reaching a decision in this case, the Commissioner has considered the arguments put forward both by the complainant and MoJ as well as the context in which the request was made.

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

13. The Commissioner notes the MoJ's previous dealings with the complainant. MoJ has been able to demonstrate that it has engaged to a significant extent with the complainant's correspondence over a number of years. The Commissioner is prepared to accept that, cumulatively, MoJ has spent a significant amount of time and resources in dealing with the complainant's information requests, in addition to separate complaints and other correspondence and contacts from the complainant.
14. It is also clear to the Commissioner that the complainant is not satisfied with MoJ and how it conducts itself. In that respect, the Commissioner understands that, over time, the complainant has made a number of complaints to MoJ including about how his previous complaints have been handled.
15. The Commissioner is mindful that, if the problems which a public authority faces in dealing with a request have, to some degree, resulted from deficiencies in its handling of previous enquiries by the same requester, then this will weaken the argument that the request, or its impact upon the public authority, is disproportionate or unjustified.
16. However, in the circumstances of this case and on the basis of the evidence provided, the Commissioner considers that it is reasonable to conclude that the complainant will continue to submit requests, and/or maintain contact about the subject matter regardless of any response provided to the request in question. In this case, the Commissioner also recognises that it was reasonable for the MoJ to be concerned that the complainant would use the requested information in a disruptive way, by contacting MoJ staff who had no involvement in relation to his issues. The disruption to MoJ resulting from any continuing correspondence would be disproportionate. The Commissioner is therefore satisfied that, in the context of MoJ's previous and ongoing dealings with the complainant, compliance with the request would result in a disproportionate burden on its resources.
17. Consequently the Commissioner is satisfied that the MoJ has correctly relied on section 14(1).

Right of appeal

18. 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: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

19. 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.
20. 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

Ben Tomes
Senior Case Officer
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