

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 May 2013

Public Authority: United Kingdom Supreme Court (UKSC)

Address: The Supreme Court
Parliament Square
London
SW1P 3BD

Decision (including any steps ordered)

1. The complainant requested copies of the submissions from the appellants in a specified case.
2. The Commissioner's decision is that the section 32(1) FOIA exemption is engaged. As section 32 FOIA is an absolute exemption, the Commissioner did not proceed to consider the public interest, and concluded that UKSC had correctly withheld the requested information.
3. The Commissioner does not require UKSC to take any action.

Request and response

4. On 23 January 2013 the complainant requested the following information on the UKSC 2010/0215 judgement:

"You should provide us with copies of the submissions made by the Appellants, The General Council of the Bar, The Law Society to the Supreme Court of the United Kingdom as the Bar Council does have copies of the Documents in the House of Lords decision of Arthur J S Hall Versus Simmons."
5. UKSC responded on the same day, 23 January 2013. It refused to provide the requested information and cited the exemption at section 32(1)(a) – Court records, as its basis for doing so.
6. UKSC provided the outcome of its internal review on 24 January 2013. It upheld its original position.

Scope of the Case

7. The complainant contacted the Commissioner on 24 January 2013 to complain about the public authority's response.
8. The Commissioner wrote to the complainant on 3 April 2013 and explained that his investigation would consider whether UKSC is correct in its application of section 32(1)(a) to the request

Reasons for decision

Section 32(1) states:

9. *"Information held by a public authority is exempt information if it is held only by virtue of being contained in-*
 - (a) any document filed with, or otherwise placed in the custody of, a court for the purposes of proceedings in a particular cause or matter,*
 - (b) any document served upon, or by, a public authority for the purposes of proceedings in a particular cause or matter, or*
 - (c) any document created by-*
 - (i) a court, or*
 - (ii) a member of the administrative staff of a court,**for the purposes of proceedings in a particular cause or matter."*
10. As above, section 32(1)(a) states that information is exempt if it is held only by virtue of being contained in any document filed with, or otherwise placed in the custody of, a court for the purposes of proceedings in a particular cause or matter.
11. There are two main tests in considering whether information falls within this exemption. First, is the requested information contained within a document filed with a court in relation to a particular cause or matter? The next test is to consider if this information is held by the relevant public authority only by virtue of being held in such a document.
12. On 13 May 2013 UKSC informed the Commissioner that it held information in the scope of the request. The relevant documents were supplied to the Court by two of the parties bringing a case to the UKSC. UKSC confirmed that the documents are not held for any other purpose and they are held only in the records associated with the particular case.

13. From his examination of the withheld documents the Commissioner is satisfied that the information is held only by virtue of being contained in a document as described in section 32(1)(a).
14. Consequently the Commissioner's decision is that the section 32(1)(a) exemption is engaged. As this is an absolute exemption the Commissioner did not consider the balance of the public interest. The Commissioner is therefore satisfied that UKSC correctly withheld the requested information.

Right of appeal

15. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

16. 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.
17. 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

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