

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

### **Decision notice**

**Date:** 14 May 2025

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

#### **Decision (including any steps ordered)**

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1. The complainant requested information relating to the current holder of a specified Registrar role.
2. The Ministry of Justice (MoJ) ultimately confirmed it holds some information in scope of the request. It provided some relevant information, but withheld the remainder, citing sections 22 (information accessible to applicant by other means) and 40 (personal information) of FOIA.
3. The MoJ later withdrew its reliance on section 40, stating instead that the requested information is not held. The complainant disputes that the MoJ does not hold the requested information relating to the educational qualifications and professional experience of the Registrar.
4. The Commissioner's decision is that, on the balance of probabilities, the MoJ does not hold the requested information relating to their educational qualifications and professional experience. The MoJ has therefore complied with section 1(1)(a) of FOIA.
5. The Commissioner requires no steps to be taken as a result of this decision.

## Request and response

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6. On 4 September 2024, the complainant wrote to the MoJ and requested information in the following terms:

"I am writing to request information under the Freedom of Information Act 2000. My request pertains to the current [Registrar]. Please provide the following information:

Confirmation that [named individual], registered with the Solicitors Regulation Authority under number [number redacted], is currently serving as the [Registrar].

The [Registrar's] salary information:

- a) The starting salary when the current [Registrar] took up the position
- b) The current salary of the [Registrar]
- c) Any salary increases or adjustments since the appointment, including dates and amounts

The [Registrar's] educational and professional background:

- a) Educational qualifications, including institutions attended and degrees obtained
- b) Professional experience prior to appointment as [Registrar], including previous roles, employers, and dates of employment
- c) Any specific qualifications or experience that were required for the [Registrar] position

Details of the appointment process for the current [Registrar]:

- a) The date the position was advertised
- b) The minimum qualifications and experience required, as stated in the job advertisement
- c) The date of appointment of the current [Registrar]".

7. The MoJ responded on 23 September 2024. It denied holding any information in scope of the request.
8. Following an internal review, the MoJ wrote to the complainant on 18 November 2024, revising its position.
9. With regard to confirmation that the individual named in the request is currently serving in the specified Registrar role, and the date they were appointed, the MoJ confirmed that it holds that information. However, it considers that information is exempt from disclosure, under section 21 of FOIA, on the basis that it is reasonably accessible to the requester. The MoJ provided the complainant with the relevant link to where the information can be found.

10. It provided some information in scope of the other parts of the request, but withheld the remainder, citing section 40(2) of FOIA.

## **Scope of the case**

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11. The complainant initially contacted the Commissioner about the MoJ's application of section 40(2) to withhold some of the requested information, namely information relating to the salary, educational qualifications and professional experience of the specified Registrar. They consider that the public has a legitimate interest in knowing the professional background of officials making decisions affecting citizens' rights.
12. The Commissioner notes that, by virtue of the information exempt under section 21 of FOIA, the complainant is able to access information about the Registrar specified in the request, including when they were recruited.
13. During the course of the Commissioner's investigation, the MoJ issued a further response to the complainant in which it provided some relevant information, namely the generic starting salary of the role and the qualifications and/or experience that are required for a Registrar. However, it explained that it does not hold any information relating to the specified Registrar's educational and professional background.
14. The complainant remained dissatisfied, arguing that the MoJ's revised response directly contradicts its earlier internal review. They highlighted what they consider to be "several concerning aspects" of the MoJ's revised response.
15. They told the Commissioner:

"I respectfully request that the ICO thoroughly investigate this matter, particularly examining whether the MOJ genuinely lacks this information or is attempting to circumvent its obligations under FOIA".
16. On the basis of those grounds of complaint, the analysis below considers whether the MoJ holds information relating to the specified Registrar's educational qualifications and professional experience.
17. The Commissioner has addressed the complainant's concern about a procedural issue in 'Other matters' at the end of this notice.

## Reasons for decision

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### Section 1 - general right of access to information held by public authorities

18. Under section 1(1) of FOIA, anyone who requests information from a public authority is entitled, under subsection (a), to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.

### The complainant's view

19. The complainant believes that the MoJ's claim that all information about the Registrar's qualifications and experience was contained solely in their original application for the role, that has since been destroyed, is not credible. They also argued that, even if the information had been destroyed, the MoJ had other means of obtaining the information.
20. For example, they consider that personnel records for current employees are typically maintained throughout their employment and that performance reviews and other ongoing employment documentation would reference qualifications and experience.

### The MoJ's view

21. The MoJ told the complainant that it does not hold information relating to the specified Registrar's educational and professional background. It explained that such information would have been contained in their application for the role, which has been destroyed "in line with the required two years retention".
22. During the course of the Commissioner's investigation, the MoJ provided him with a copy of a document called "What to Keep. The MoJ's Retention Policy and Guidance".
23. Within that document, it referred the Commissioner to the page that contains a table relating to "HR records held by managers and business areas".
24. Of relevance in this case, the Commissioner notes that the retention period for information relating to recruitment records, including applications and supporting documents, is "two years from date decision made".
25. The MoJ also told the Commissioner that, if the information was held, it would be held by either, or both, of HR and the relevant business area. It further explained:

"A search via HR confirmed that no data is held within their department and following a more detailed search [at the relevant business area], any data that may have been held relating to [name redacted]'s educational qualifications and professional experience, would have been destroyed in line with their two-year retention period".

26. The MoJ described the nature of the searches it had conducted. For example, it said that the search terms used would have included the specified individual's name, their national insurance number or employee number or both, business area and role title.

### **The Commissioner's view**

27. In cases where there is some dispute about the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner – following the lead of a number of First-tier Tribunal decisions – applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is likely, or unlikely, that the public authority holds information relevant to the complainant's request.
28. For clarity, the Commissioner is not expected to prove categorically whether the information is held, he is only required to make a judgement on whether the information is held on the civil standard of proof of the balance of probabilities.
29. In reaching his decision in this case, the Commissioner has taken account of the views put forward by the complainant. He has also considered the explanation the MoJ provided as to why the information is not held.
30. Based on the evidence provided to him, the Commissioner is satisfied that, on the balance of probabilities, the MoJ does not hold recorded information falling within the scope of the part of the request relating to educational and professional qualifications.
31. He is therefore satisfied that the MoJ has complied with the requirements of section 1 of FOIA in this case.

### **Other matters**

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32. The Commissioner acknowledges that the complainant considers that the MoJ failed to include, in its latest substantive response, standard information about their right to request an internal review.

33. Having considered the correspondence, the Commissioner is satisfied that the MoJ's response did include details of the complainant's appeal rights.

## **Right of appeal**

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34. 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)

35. 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.
36. 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**  
**Cheshire**  
**SK9 5AF**