

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date 31 October 2006

Public Authority: Department for Constitutional Affairs
Address: Selbourne House
54 Victoria Street
London
SW1H 6QW

Summary

The complainant submitted a request to the public authority for the number of claims allocated to individual Queen's Bench Masters and the number of claims struck out by individual Queen's Bench Masters for the years 2001, 2002, 2003 and 2004. The public authority advised the complainant that the statistical information requested had not previously been compiled and was not therefore held by the public authority. Having considered the information available the Commissioner is satisfied that the information requested by the complainant is not held by the public authority. Although the information could be extracted from existing court files the Act places no obligation on a public authority to create new information in response to a request.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 ('the Act'). This Notice sets out his decision.

The Request

2. On 18 February 2005 the following information was requested from the public authority in accordance with section 1 of the Act:

"The number of claims allocated to individual Queen's Bench Masters for the years 2001, 2002, 2003 and 2004.

The number of strike outs of claims by individual Queen's Bench Masters for the years 2001, 2002, 2003 and 2004".

3. On 18 March 2005 the complainant was advised that the statistical information requested had not previously been compiled and was not therefore held by the public authority.
4. The complainant disputed this response and on 23 April 2005 he asked that the public authority carry out an internal review.
5. Having conducted an internal review the public authority upheld its original decision in a letter to the complainant dated 28 June 2005.
6. The public authority advised that it had conducted a sample exercise to determine whether collating the information from existing court records would be viable. This exercise found that it would take approximately 42 weeks to compile the information requested.

The Investigation

Scope of the case

7. On 21 August 2005 the complainant contacted the Commissioner to complain that the public authority had failed to provide him with the information he had requested under the Act.

Chronology

8. The Commissioner wrote to the public authority on 17 January 2006 seeking a summary of the process that was undertaken to establish that the information requested by the complainant was not held and details of the sample exercise that was carried out to determine if collating the information would be viable.
9. In its response dated 1 June 2006, the public authority advised the Commissioner that details of the sorts of data collected by the Queen's Bench Division are published annually in the Judicial Statistics Annual Report. However, the detailed statistics requested by the complainant (i.e. claims by individual Queen's Bench Master) are not collated by the courts.
10. The public authority explained that the Queen's Bench Division handles in the region of 5,000 claims a year and for each claim there is a separate case file. The information requested by the complainant could only be obtained by undertaking an analysis of each individual case file and creating new statistical information from that analysis. The public authority therefore considered that the information was not held.
11. Nevertheless, the public authority conducted a sample exercise to determine whether it would be feasible to obtain the information requested from the available records. This exercise found it would take on average five minutes to extract the relevant information from each individual case file. This works out at 12 files per hour and 84 files per day. On that basis the public authority estimated

- that to go through the 17, 642 files held for the period stipulated in the request would take 210 days.
12. The complainant suggested that since 2004 the Queen's Bench Masters claims files have been held on a computer system and whilst statistical data for claims prior to this date may have to be collated manually, information about claims after 2004 should be easily retrievable.
 13. The public authority advised the Commissioner that High Court claims are entered onto the 'High Court Forms' database. This system has been in operation since 1999 and is used to capture details of the claim, record details of the parties, and to track the court's handling of the court file. The system also records significant "events" that occur, such as issuing the case, receiving a defence, moving a file, and orders made by the Master. The public authority advised that the system is not sophisticated and only allows very basic searches to be carried out. Although the name of the assigned Master is recorded on the system it is not possible to perform a standard search for this specific information. In addition, strike outs by individual Masters are not normally shown on the system and this information can only be obtained through a manual search of all the files.

Analysis

Procedural matters

14. The Commissioner has considered whether the information requested by the complainant is held by the public authority.
15. The public authority is of the view that it does not hold the statistical information requested by the complainant. Whilst the public authority accepts that the raw data from which the statistics could be compiled is held in individual court files this data would need to be aggregated in order to meet the information request.
16. The Commissioner understands that each of the court files relevant to this request will contain within it the information requested by the complainant, i.e. whether the case was allocated to a Queen's Bench Master and whether the case was subsequently struck out.
17. The Commissioner accepts that the actual statistical information is not held in the form requested. Although information could be extracted from files held by the public authority which could then be aggregated to produce these headline figures, this would involve considerable effort. There may be situations where the ease and simplicity with which data can be manipulated to present the actual information requested means it would be difficult for a public authority to argue that it does not hold the information. However the resource implications that would be involved in this case clearly amounts to the creation of new information.

The Decision

18. The Commissioner is satisfied that the information requested is not held by the public authority and considers that the complainant's request has been dealt with in accordance with section 1(1) of the Act.

19. Section 1(1) of the Act states that:

“Any person making a request for information to a public authority is entitled -

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.”

Steps Required

20. The Commissioner requires no steps to be taken.

Right of Appeal

21. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

Dated the 31st day of October 2006

Signed

**Jane Durkin
Assistant Commissioner**

**Information Commissioner's Office
Wycliffe House
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Wilmslow
Cheshire
SK9 5AF**