

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

### **Decision notice**

**Date:** 4 January 2023

**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 judicial training materials.
2. The MoJ denied holding the requested information.
3. The Commissioner's decision is that, on the balance of probabilities, the MoJ does not hold the requested information.
4. The Commissioner requires no steps to be taken as a result of this decision.

#### **Request and response**

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5. On 4 November 2021, in lengthy correspondence to the MoJ, the complainant requested information in the following terms:

"I believe that the training materials for judicial education and training are of substantial public interest....

I am particularly interested in, and request records about, the following training (citing page numbers are to the public PDFs at links above):

1. Any training given to lay magistrates (see below)
2. Magistrates' Court distance learning/training packs (ROA AAR p. 7)

3. Learning Management System (LMS) online materials and e-learning modules (ROA AAR p. 4)
  4. Deputy Bench Chairmanship Course (ROA SOT p. 8)
  5. Bench Chair Course (ROA SOT p. 8)
  6. Adult Legal Adviser Induction Training (JCP p. 75)
  7. Deputy District Judge Induction (JCP p. 50)
  8. Delivering Judgments and Admissibility of Evidence Rulings (JCP p. 32)
  9. Sentencing and Confiscation seminar (JCP p. 36)".
6. The complainant was clear that the request was made under the following legislation:
    - sections 1(1) and 8 of FOIA;
    - section 5(3 & 5) Public Records Act 1958 (PRA); and
    - section 6 Re-use of Public Sector Information Regulations 2015 (RPSI).
  7. The request was made using the 'whatdotheyknow' website.
  8. While the MoJ did not initially explain whether or not it held the requested information, at internal review it denied holding the requested information for the purposes of FOIA by virtue of section 3(2)(a) (public authorities) of FOIA. No reference was made to RPSI or the PRA.

## **Scope of the case**

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9. During the course of the Commissioner's investigation, the MoJ clarified the basis on which it is refusing the request, confirming that it considers section 1 (general right of access) of FOIA applies.
10. The Commissioner has sought to determine whether, on the balance of probabilities, the MoJ holds the requested information.
11. The Commissioner has addressed the issue of whether the MoJ was required to issue a response under RPSI and/or the PRA in 'Other matters' below.

## **Reasons for decision**

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12. Section 1(1) of FOIA provides 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, if that is the case, to have that information communicated to him.”

13. The complainant addressed the request for information to “Dear Ministry of Justice (including HMCTS, JO, & JC) [HM Courts and Tribunals Service, Judicial Office & Judicial College]”. In doing so, it was clear that the request was directed at the MoJ, not the judiciary or any member thereof.

14. It is not in dispute that the MoJ is a public authority for the purposes of FOIA. Nor is it disputed that the judiciary is not a public authority for the purposes of FOIA.

15. The Commissioner is mindful of the wording of the request in this case. He also acknowledges that the complainant believes that the MoJ is the records’ custodian, that the records requested are the MoJ’s and serve MoJ’s interests.

16. However, the Commissioner accepts the explanation provided by the MoJ that, as the judiciary is responsible for judicial training, the requested information is not held by the MoJ.

17. His decision in this case is that, on the balance of probabilities, the MoJ does not hold the requested information. He is therefore satisfied that the MoJ has complied with the requirements of section 1 of FOIA.

## **Other matters**

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18. The complainant was dissatisfied that the MoJ did not address the PRA or RPSI, which were explicitly detailed in the request as separate grounds for release.

19. In his guidance<sup>1</sup> the Commissioner explains:

“RPSI is about permitting re-use of information and how it is made available. It is not about accessing information, which is dealt with under information access legislation”.

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<sup>1</sup> <https://ico.org.uk/for-organisations/guide-to-rpsi/what-is-rpsi/>

20. His guidance to organisations states:

“If you have not previously disclosed the information requested, then you should also deal with this as an access request under the appropriate legislation eg FOIA, EIR, the Freedom of Information (Scotland) Act or the Environmental Information (Scotland) Regulations in order to decide whether the information is exempt. This will be the first stage of dealing with the request and you must go on to deal with the re-use request”.

21. In other words, RPSI provides for re-use of information once access has been obtained.

22. In light of the Commissioner’s conclusion above, regarding access to the requested information under FOIA, the Commissioner has not found it necessary to consider whether the MoJ was required to permit re-use under RPSI.

23. Furthermore, as access to information under the PRA falls outside of his remit, the Commissioner has not considered whether the MoJ’s handling of the request was in accordance with the PRA.

## Right of appeal

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24. 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)

25. 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.
26. 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 .....**

**Laura Tomkinson**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**