



Ministry of Justice

Conor James McKinney
cj@fullfact.org

Information Governance
Legal Aid Agency
102 Petty France, London,
SW1H 9AJ

T 0300 200 2020
E InformationGovernanceLAA@legalaid.gsi.gov.uk

www.gov.uk/legal-aid

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Freedom of Information Request

Dear Mr McKinney,

Thank you for your email of 28 July 2015, in which you asked for the following information from the Ministry of Justice (MoJ):

“I would like to make a request for the information below pursuant to the Freedom of Information Act 2000.

1. (a) In how many completed civil cases did the Legal Aid Agency pay each of the following categories of hourly rates – listed in Table 2, Schedule 2 of the Civil Legal Aid (Remuneration)(Amendment) Regulations 2013 – in the financial year 2014/15?

- ***Leading senior counsel in the Court of Appeal (£157.50)***
- ***Queen’s Counsel (where approved for briefing or instruction by the Lord Chancellor) in the High Court or Court of Appeal (£180)***
- ***Leading senior counsel in the Supreme Court (£180)***
- ***Queen’s Counsel (where approved for briefing or instruction by the Lord Chancellor) in the Supreme Court (£225)***

1. (b) If possible within cost limits, in what proportion of legally aided civil cases completed in the financial year 2014/15 did the Legal Aid Agency pay the above rates?

2. (a) In how many instances was total time spent by a civil legal aid provider on completed cases funded under each of the following categories – those defined by the Legal Aid Agency as “Civil Social Welfare Law” – one hour or less in the financial year 2014/15?

- ***Community Care***
- ***Debt***
- ***Employment***
- ***Housing***
- ***Welfare Benefits***

2. (b) If possible within cost limits, in what proportion of completed Civil Social Welfare Law cases funded by the LAA in the financial year 2014/15 was total time spent one hour or less?

2. (c) If possible within cost limits, please provide a breakdown of completed Civil Social Welfare Law cases in the financial year 2014/15 by time spent, in hourly bands, up to the relevant escape fee threshold.”

Your request has been handled under the Freedom of Information Act 2000 (FOIA). I can confirm that the Ministry of Justice holds information that you have asked for. However, because the cost of complying with your request would exceed the limit set by the Freedom of Information Act, on this occasion I'm afraid I will not be taking your request further. In this letter I explain why that is the case and I also provide you with some advice as to how you could refine your request so that we may be able to answer it.

The law allows us to decline to answer FOI requests when we estimate it would cost us more than £600 (equivalent to 3½ working days' worth of work, calculated at £25 per hour) to identify, locate, extract, and then provide the information that has been asked for.

When the LAA processes a claim for payment against a civil representation matter, information pertaining to the rank of Counsel acting in the matter is not recorded in its case management system. In this instance to provide you with the information that you have requested, we would therefore be required to locate the fee notes submitted alongside each claim for payment that we have received against a civil representation matter during 2014/15, and manually check the note to determine the rank of Counsel that acted in the matter, and subsequently whether they qualified for any of the rates listed.

This would entail checking a minimum of 116,000 bills. We estimate that it would take on average 20 minutes to extract the required information against an individual bill, meaning that to respond to the first part of your request would take approximately 38,700 hours, which is in excess of the limit prescribed in the act.

Although we cannot answer your request at the moment, we might be able to answer a refined request within the cost limit. You may wish to consider, for example, submitting only the second part of question 2. Please be aware that we cannot guarantee at this stage that a refined request will fall within the FOIA cost limit.

You can find out more about Section 12(1) by reading the extract from the Act and some guidance points we consider when applying this exemption, attached at the end of this letter.

You can also find more information by reading the full text of the Act, available at <http://www.legislation.gov.uk/ukpga/2000/36/section/12>.

I am sorry that on this occasion I have not been able to answer your request. You have the right to appeal our decision if you think it is incorrect. Details can be found in the 'How to Appeal' section attached at the end of this letter.

Disclosure Log

You can also view information that the Ministry of Justice has disclosed in response to previous Freedom of Information requests. Responses are anonymised and published on our on-line disclosure log which can be found on the MoJ website: <https://www.gov.uk/government/organisations/ministry-of-justice/series/freedom-of-information-disclosure-log>

Yours sincerely

Information Governance

How to Appeal

Internal Review

If you are not satisfied with this response, you have the right to an internal review. The handling of your request will be looked at by someone who was not responsible for the original case, and they will make a decision as to whether we answered your request correctly.

If you would like to request a review, please write or send an email **within two months of the date of this letter** to the Data Access and Compliance Unit at the following address:

Data Access and Compliance Unit (10.34),
Information & Communications Directorate,
Ministry of Justice,
102 Petty France,
London
SW1H 9AJ

E-mail: data.access@justice.gsi.gov.uk

Information Commissioner's Office

If you remain dissatisfied after an internal review decision, you have the right to apply to the Information Commissioner's Office. The Commissioner is an independent regulator who has the power to direct us to respond to your request differently, if he considers that we have handled it incorrectly.

You can contact the Information Commissioner's Office at the following address:

Information Commissioner's Office,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire
SK9 5AF

Internet address: https://www.ico.org.uk/Global/contact_us

ADDITIONAL INFORMATION ABOUT SECTION 12(1)

We have provided below additional information about Section 12 of the Freedom of Information Act. We have included some extracts from the legislation, as well as some of the guidance we use when applying it. We hope you find this information useful.

The legislation

Section 1: Right of Access to information held by public authorities

- (1) 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.

Section 12: Cost of compliance exceeds appropriate limit

- (1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.
- (2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.
- (3) In subsections (1) and (2) “the appropriate limit” means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.
- (4) The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority—
- (a) by one person, or
 - (b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.

- (5) The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.

Guidance

The appropriate limit

The 'appropriate limit', for the purposes of section 12 of the Freedom of Information Act has been set at:

- £600 for central government and Parliament.
- The hourly rate is set at £25 per person per hour.

The following activities may be taken into account when public authorities are estimating whether the appropriate limit has been exceeded.

- determining whether it holds the information requested
- locating the information or documents containing the information

- retrieving such information or documents
- extracting the information from the document containing it.