

15 June 2023

IC-231921-C7B8

Request

On 25 May 2023 you asked us:

"Could you please send me full details of all complaints and queries the ICO has received from public bodies/FOI response providers regarding misuse or inappropriate use of the Act since 2000?"

We have handled your request under the Freedom of Information Act 2000 (the FOIA).

Our response

It is not possible to confirm the extent to which we hold information falling within the scope of your request because we do not categorise these cases as complaints or advice relating to the "misuse or inappropriate use" of the FOIA. Conducting the relevant searches to determine if the organisation mentioned "misuse or inappropriate use" of the Act would breach the cost limit envisaged by section 12 of the FOIA.

Section 12(2) of the FOIA states that a public authority is not obliged to confirm or deny if requested information is held if the estimated cost of establishing this would exceed the appropriate cost limit. I have provided some more detail about why this is the case in this instance below.

FOIA section 12

Section 12 of the FOIA makes clear that a public authority is not obliged to comply with an FOIA request if the authority estimates that the cost of complying with the request would exceed the 'appropriate limit'.

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 stipulates that the 'appropriate limit' for the ICO is £450. We have determined that £450 would equate to 18 hours work.

In order to assist me with this assessment, I conducted a sample exercise. A sample exercise is where I start to scope the information we hold to determine if it does or does not fall within the parameters of your request. I time this exercise in order to calculate an average time to review each relevant advice or complaint case to determine whether it falls within scope of your request.

In the 2022/2023 financial year alone, we received over 1250 advice and complaint submissions from organisations in relation to the FOIA. These were either submitted by email, telephone, letter, social media or using our online live chat service.

To determine whether the organisation contacted the ICO and mentioned "misuse or inappropriate use" of the FOIA, we would need to manually review each case. This would include reading every email, letter or note to determine the reason for the complaint or request for advice.

Assuming that each search would take approximately 5 minutes to complete – and it is certain that some searches would take much longer than that – this would equate to over 104 hours worth of searching in the 2022/2023 financial year alone. This is in excess of the 18 hours which would accrue a charge of £450 or less, triggering the provisions of section 12 of the FOIA.

Advice and Assistance

As mentioned, when we deal with a FOI complaint or request for advice, we do not categorise them by "misuse or inappropriate use" of the Act. However, we do categorise written complaints and requests for advice by the sub-section of the Act that they relate to. It may therefore help to alter the scope of your request for written complaints/advice in relation to specific sections of the FOIA. For example, we may be able to provide you with statistical information about written complaints and requests for advice in relation to section 14 of the FOIA (vexatious and repeated requests) or section 17 (refusal of request).

Please note that information in relation to our casework is kept in line with our retention policy, having checked for complaints and advice in relation to the FOIA, we do not hold any cases prior to 2019. Therefore, if you do choose to submit a revised request, please note that we cannot provide you with the figures from 2000 to December 2019.

We are also aware that you have requested full details of each case, a request for full details of a case would require reviewing all documents and emails contained

on each case. Although we cannot predetermine the outcome of a request, a revised request for full details would likely attract a number of exemptions including the personal data of the person who made the complaint, and information prohibited from disclosure by law. With this in mind, even if you limited the number of cases that fall within scope of your request, it would be particularly burdensome to consider full details due to the number of exemptions that would likely be engaged. Such a request may therefore also be refused. However, we can provide statistical information if this would be useful to you.

Alternatively, we do publish information about the complaints that we have received from members of the public on our website. You can find a link to the complaints that we have received about the FOIA [here](#).

This concludes our response to your request.

Next steps

You can ask us to review our response. Please let us know in writing if you want us to carry out a review. Please do so within 40 working days.

You can read a copy of our full review procedure [here](#).

If we perform a review but you are still dissatisfied, you can complain to the ICO as regulator of the FOIA. This complaint will be handled just like a complaint made to the ICO about any other public authority.

You can [raise a complaint through our website](#).

Your information

Our [Privacy notice](#) explains what we do with the personal data you provide to us, and set out your rights. Our retention schedule can be found [here](#).

Yours sincerely,



Information Access Team
Risk and Governance Department, Corporate Strategy and
Planning Service
Information Commissioner's Office, Wycliffe House, Water
Lane, Wilmslow, Cheshire SK9 5AF
ico.org.uk twitter.com/iconews
Please consider the environment before printing this email
**For information about what we do with personal data
see our [privacy notice](#)**