

9 August 2023

IC-248716-J6W2

Dear [REDACTED]

I write further to your request for information of 30 July 2023.

Request

You requested:

"Please provide a full statistical count and disclosure of any and all male or transgender male employees working for the ICO from 1/1/2022 - 1/1/2023 whom have sexual offence convictions concerning any sexual offence committed against a genetic or transgender woman or girl, found to have been committed by a guilty verdict reached by a jury in any criminal court in England, Scotland, Wales, Northern Ireland or the British Military - if any.

This would include who such males are and what they were convicted of."

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

As you will be aware, this request is substantially similar to a previous request you submitted which we responded to on 12 December 2022, under case reference IC-157179-T3H3.

Our response

We are refusing your request under section 12 of the FOIA as to undertake the necessary searches to determine whether we hold information which falls within the scope of your request will exceed the cost limits.

You may be aware section 12 of the FOIA makes clear that a public authority (such as the ICO) is not obliged to comply with a FOIA request if the authority estimates that the cost of complying with the request would exceed the 'appropriate limit'. The 'appropriate limit' for the ICO, as determined in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 is £450. We have determined that £450 would equate to 18 hours work.

As we outlined in our previous response to you, our HR team have explained that our criminal records checks and security checks are managed by the Cabinet Office; we are advised that the checks have been completed and whether the employee has any convictions or not. We are not advised of specific convictions just that there is something on their record, this is then followed up with the employee directly by the ICO's HR team. There is also a possibility that an employee could receive a conviction whilst already employed at the ICO which would be reported to HR either directly or through the line management structure. We do not keep a record of disclosed convictions centrally which means that to find out whether we hold any information which falls within the scope of your request we would need to review individual HR files.

As you have requested information relating to "any male or transmale employee" who was employed at the ICO during the calendar year 2022 there are likely to be over 400 individual employees whose HR files would need to be searched in order to ascertain whether there are any convictions recorded which are relevant to your request. This is because some employees would have left the ICO and some would have joined us during that time period.

We estimate that it would take a minimum of 5 minutes to search each HR file, with many files taking significantly longer dependent on the length of service or amount of information contained within the file. This means that to determine whether we hold any information relevant to your request would take a minimum of 33 hours, and likely substantially longer, which is well in excess of the cost limits as explained above.

As with your previous request we have given some consideration as to how you could refine your request to bring it below the cost limit. If you were to limit your request to a particular time period, for example, male or transmale individuals who became employed by the ICO within the current financial year, this would significantly reduce the number of HR files we would need to consider and the files would be likely to have limited information in them due to the shorter length of service. To be clear, rather than requesting information relating to individuals who were employed by the ICO during a particular period, your request would need to be for information relating to individuals who started employment at the ICO during a particular, limited, time period. This may then allow us to undertake the necessary searches within the section 12 costs limits to determine whether we hold information.

I appreciate this response may be disappointing but I hope the explanation provided above is clear.

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



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