

8 March 2024

Ref: IC-282722-N0T6

I write in response to your email of 12 February 2024 in which you request a review of our response to your request for information. Your request was as follows:

- 1. Over the past six months, how many Freedom of Information request appeals against the Information Commissioner's Office have been dismissed or allowed by the First Tier Tribunal (FTT) (whether on the papers or with an in-person or online hearing) without the ICO submitting a skeleton argument?*
- 2. Over the past six months, how many Freedom of Information request appeals against the Information Commissioner's Office have been dismissed or allowed by the First Tier Tribunal following an in-person or online hearing without the ICO attending or being represented at the hearing?*

The purpose of an internal review is to look again at your request, at our response, and to check that any exemptions applied were appropriate. I am a Group Manager in the Information Access Team. I have had no prior involvement in the handling of your request.

Review response

You have asked for a review on the basis that you disagree with our decision to refuse your request pursuant to the provisions of section 12 of the Freedom of Information Act 2000 (FOIA). You have disagreed with our estimate of the likely time needed to comply with your request (on the basis that this request was already a revised request following an earlier section 12 refusal notice) and have suggested that there is a level of artifice in our assessment of the cost of complying.

You have also indicated that you feel there is a public interest in the ICO working beyond the £450 (18 hours work) appropriate limit set by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

I have reviewed the response provided to you, and have looked again at the scoping exercise and internal consultations undertaken in order to provide a response to your request. I am satisfied that identifying and extracting information in scope of your request would exceed 18 hours and therefore the decision to issue a section 12 refusal notice was correct.

There is very little further explanation I can add, as I consider that the reasons your request was necessarily refused were clearly explained in our response on 12 February 2024. The information you are seeking is highly specific and if held would be contained within the documentation on individual cases. A manual review of a large number of closed and open cases would therefore be required.

I disagree with your position that there is a public interest in the ICO dedicating time and resources in excess of the 'appropriate limit' to your request. The information that is of public interest about the regulatory work of both the ICO and the First-tier Tribunal is already routinely made public. I do not consider that there is wider public interest in the specifics of whether skeleton arguments were submitted or whether the ICO attended or was represented in individual cases. If this information is of significant interest to you it may be referenced in the decisions issued by the FTT, which are available to view on their website [here](#). Either way, as section 12 of the FOIA allows for a public authority to refuse a request on cost grounds, a public authority is not obliged to consider the public interest as it would were a qualified exemption applied.

I also consider that you were provided with clear and appropriate advice and assistance in order to assist you in refining your request, and I note you have made a refined request which is being considered separately to this review.

In conclusion, I do not uphold your challenge to our decision to refuse your request on cost grounds.

Complaint procedure

If you're not satisfied with the outcome of this review, you can make a formal complaint to the ICO as regulator of the FOIA. This complaint will be handled by a separate, independent team of ICO staff, just like a complaint made to the ICO about any other public authority.

You can raise that type of complaint through our [website](#).

Your information

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

Yours sincerely



Shannon Keith
Information Access Group Manager
Risk and Governance Department

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

ico.org.uk twitter.com/iconews

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