

4 July 2023

Case Reference IC-240132-H7D3

Your request

You asked us for the following:

"... how many complaints you've had about enforced subject access requests in the last 24 months. And pls advice me (s16 blah) how many more years I can have before I bust s12 limit."

Where your questions satisfy the criteria of a valid information request, we have considered your request under the Freedom of Information Act 2000 (FOIA).

Our response

We are unable to provide a response to this request as doing so would exceed the cost limits laid out in section 12 of the FOIA.

Before explaining why we are unable to confirm the number of complaints about enforced SARs, we can confirm that, since 2019 we have opened 32 investigation cases in which enforced SARs have been alleged.

As 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 an 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.

Complaint cases are not recorded as relating to enforced SARs in an automatically searchable way. Therefore, each complaint that has been recorded as relating to a broader category would have to be searched. Manually searching all 12,529 cases recorded as relating to 'Article 15 Right of Access' (and it is possible that complaints about enforced SARs may have been logged under other reasons, such as 'Article 5 Fairness of Processing') alone would far exceed the cost limit. Were each case to take even as little as one minute

to search (and it is likely to take longer than that for many cases), the search time would exceed 200 hours.

We have given some consideration to how you may be able to narrow the scope of your request to try and bring this with the section 12 FOIA cost limit. Due to the high number of complaints/concerns that are reported to the ICO it would be necessary in the first instance to significantly reduce the time frame your request covers. This alone is unlikely to bring your request within the cost limit as even a time frame of a few weeks will still encompass a large amount of casework to be checked manually. Moreover, such a restricted timeframe would be unlikely to yield a useful picture of the ICO's regulatory engagement on this issue.

This concludes our response to your request.