

20 July 2023

IC-240991-M5M0

Request

"Could you please confirm the number of data subject complaints you have refused to investigate – over the last 12 months – because a data subject has not first complained to a controller?"

Your request, received on 27 June 2023, has been handled under the Freedom of Information Act 2000 (the FOIA).

Response

We are not able to provide you with the requested figure because the work required to ascertain if this information we held would breach the cost limit set out in section 12 of the FOIA.

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.

Cases we have not progressed because the individual had not first complained to the data controller would be categorised on our casework management system as 'insufficient information to proceed'. However, this category will also include other circumstances not relevant to your request.

This could include cases where we asked the data subject for evidence and they did not respond, or where we advised that they should complain first to the data controller which they then did. In both of these examples, the case would be closed with an outcome of 'insufficient information to proceed', but neither could be described as the ICO 'refusing' to consider a complaint.

In total, 15,065 cases were closed in the last 12 months where the decision outcome is recorded as 'insufficient information to proceed'.

In order to arrive at the requested figure we would need to manually search the correspondence on each of those cases. Clearly, the time this would take would be well in excess of the cost limit set out by section 12 of the FOIA.

Advice and assistance

We have considered how you could narrow the scope of your request in order to bring it within the cost limit.

The number of cases is so large that even if you were to significantly reduce the time frame covered by your request this would still be likely to breach the cost limit.

A significantly reduced time frame of one week would likely require approximately 14 hours of manual searching. Although this would bring your search within the cost limit (assuming it would take three minutes to search each case), the timeframe is too narrow to provide an accurate picture of the information you are seeking. Given that manual searching would also involve some degree of interpretation about what is meant by a 'refusal' to investigate, we could not guarantee the accuracy of such results.

Consideration would also be given as to whether the value to the public of the information derived from such searches is proportionate to the effort to locate it, particularly given the issues regarding accuracy described above.

This concludes our response to your request.

FOI review procedure

If you are dissatisfied and wish to request a review of our decision or make a complaint about how your request has been handled you should write to the Information Access Team at the address below or e-mail icoaccessinformation@ico.org.uk.

Your request for internal review should be submitted to us within 40 working days of receipt by you of this response. Any such request received after this time will only be considered at the discretion of the Commissioner.

If having exhausted the review process you are not content that your request or

review has been dealt with correctly, you have a further right of appeal to this office in our capacity as the statutory complaint handler under the legislation.

To make such an application, please write to our Customer Contact Team at the address given or visit our website if you wish to make a complaint under the FOIA.

Your information

Please note that our [Privacy notice](#) explains what we do with the personal data you provide to us and what your rights are. This includes entries regarding the specific purpose and legal basis for the ICO processing information that people that have provided us with, such as an [information requester](#).

The length of time we keep information is laid out in our retention schedule, which can be found [here](#).

Yours sincerely



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