

29 August 2023

ICO Case Reference IC-248868-J4C9

Request for information

Request received 2 August 2023:

- "1. Please can you tell me what the SIX charges that you gave me information about concerning.*
- 2. Please let me know what each exact charges where.*
- 3. Can you tell me how many of those not prosecuted where the reasons of 'not in public interest' were there?"*

[In response to previous information request IC-238436-H4V9, regarding DPA s170 prosecutions.]

Your request has been handled under the Freedom of Information Act 2000 (the FOIA). As you are aware, this legislation provides public access to recorded information held by a public authority unless an appropriate exemption applies.

Our response

We have interpreted questions one and two as being a request for the exact wording of the charges brought in the six DPA s170 cases that have been prosecuted, highlighted in our response to previous request IC-238436-H4V9. We do hold information in scope of this request. However, the information is withheld under section 32 of the FOIA. Further information is provided below.

In response to question three, we searched our investigations casework management system. This shows that there were seven cases not prosecuted for reasons of 'Legal advise not in public interest'. Therefore they did not progress to court.

FOIA Section 32

The exact charges you have requested fall within the scope of section 32(1)(a), and as such are exempt from disclosure under the terms of the FOIA.

Section 32(1) of the FOIA states:

(1) Information held by a public authority is exempt information if it is held only by virtue of being contained in—

- (a) any document filed with, or otherwise placed in the custody of, a court for the purposes of proceedings in a particular cause or matter,*
- (b) any document served upon, or by, a public authority for the purposes of proceedings in a particular cause or matter, or*
- (c) any document created by—
 - (i) a court, or*
 - (ii) a member of the administrative staff of a court,*for the purposes of proceedings in a particular cause or matter.*

Section 32(4) further states:

(4) In this section—

- (a) "court" includes any tribunal or body exercising the judicial power of the State,*

This includes Magistrates' Courts.

The exact charges are held only by virtue of being contained in a document filed with a court, and are thus exempt from disclosure.

Section 32 is a class based exemption and is therefore absolute. This means that if the nature (or 'class') of the information held falls within the scope of the exemption, it need not be provided in response to an FOI request. In this circumstance we do not need to consider any public interest test.

The rationale for this exemption being absolute is that courts and tribunals regulate access to information generated in the course of proceedings, and the exemption is intended to protect court documents.

Further information

The National Archives have a section on their website on how you may be able to access information relating to Magistrates' Court hearings. Please see [Criminal court cases: an overview - The National Archives](#) (section on 'How to search for records', and the section on Magistrates' Courts in 'Criminal courts and their records since 1972').

You can find contact details for each Magistrates Court at [Find a Court or Tribunal - gov.uk](#).

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 accessicoinformation@ico.org.uk, or the postal address below.

Your request for internal review should be submitted to us within 40 working days of your receipt of this response. Any such request received after this time will be considered only 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 FOI Complaints and Compliance team at the address given, or visit our website at [Official information concern | ICO](#).

Your information

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

The length of time we keep information is laid out in our [retention and disposal policy](#).

Yours sincerely

Information Access Team

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