

Date: 14 December 2023

## Case Reference IC-268299-B9Q6

### Review of response to information request

I write further to your email of 27 November in which you requested a review of the handling of your request dealt with under the reference number IC-268299-B9Q6.

As a result, we have conducted an internal review of our response to your information request which was handled under the above reference number. I am a Group Manager in the Information Access Team, and I can confirm that I have had no prior involvement in the handling of this request.

### Request and response

On 5 November 2023 we received a request from you which said:

- *Under the principles of open justice I request that you provide to me copies of any materials submitted by the ICO to the tribunal in the above-listed appeal, arising from ICO decision IC-204725-R6L4.*
- *I would be grateful if you would also provide the materials submitted by the Home Office and by Guardian News & Media Ltd, or alternatively, email contact information for their representatives.*

The request was handled under the FOIA legislation and was refused under Sections 32(1), 40(2) and 40(3A)(a) for the reasons given in the response.

### Review

On receipt of the response, you requested an Internal Review as follows:

- *I am requesting an internal review please.*
- *I did not make a FOIA request. My request was made under the principles of open justice. I emphasized this in my response to your initial acknowledgement.*
- *Yet the ICO sat on my request for 20 days unnecessarily, rather than courteously replying in a timely way in accordance with the open justice principles.*
- *Both the Home Office & Guardian provided their submissions to me within hours of being asked. It is rather ironic that the ICO is the uncooperative one!*

The purpose of this review is to look again at your request and the response that was provided to you, to ensure it was correct and that any exemptions applied were appropriate.

I can confirm that I have reviewed the correspondence on the information request and will respond to the comments made point by point.

- Firstly, I have noted that you are requesting an Internal Review under the FOIA process, despite stating that you are not wanting the information through the FOIA. You have repeated your wish to have the information provided under the "principles of open justice."
- You are not happy that your request was not responded to immediately. I can confirm that it was issued within the statutory FOIA deadline. I must point out that the case officer had numerous live cases to consider at the same time and had to prioritize them accordingly as per the date received and the consequent due date.
- I cannot comment upon how quickly other organisations responded as I am unaware of their workloads and other commitments.
- In respect of you labelling the ICO uncooperative, I can confirm that on reviewing the case, and having spoken to colleagues in Legal Services, I can advise that providing the information through the "principles of open justice" route was not applicable in this case. This is because the Commissioner did not make any written submissions to the Tribunal – only oral submissions were made at the hearing itself. The Commissioner did not rely on any witness evidence either. I am enclosing the Chamber President's Guidance Note - Third-Party Applications For Copy Documents From The Tribunal's File for your information.
- As the ICO was unable to provide information through the "principles of open justice" route, in order to provide transparency, the case officer then considered whether any other information could be disclosed through the FOIA.
- On consideration of the request, it became apparent that it is not possible to disclose that information through FOIA. Therefore the Section 32 exemption was correctly applied.

For these reasons, your review is not upheld.

### **Complaint procedure**

If you are dissatisfied with the outcome of this review, you can make a formal complaint with the ICO in its capacity as the regulator of the Freedom of Information Act 2000. Please follow the link below to submit your complaint:

<https://ico.org.uk/make-a-complaint/>

Yours sincerely

Helen Sweeney

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