

22 December 2023

**Reference number: IC-272562-K1J4**

**Request**

You asked us: *"I refer to case IC-219991-T8C5 where it was ruled that s36 was not engaged given there was no substantive (or any) opinion emitted by the QP. I would like to obtain information related to:*

- 1.- Internal discussions or consultations between ICO Staff (Caseworkers, Team Leaders, Senior Management, Legal) about taking this approach (altogether invalid s36 engagement) and ensuring it would stand scrutiny.*
- 2.- External communications between the ICO and the PA where: (i) this problem was flagged to the PA, (ii) any opportunity was given to them to explain themselves, and (iii) any opportunity was given to them to rectify the situation by re-issuing the QP's opinion."*

We received your request on 27 November 2023.

We have handled your request under the Freedom of Information Act 2000 (the FOIA).

**Our response**

Conducting the searches necessary to confirm if we hold the information you have asked for would exceed the cost limit set out by section 12 of the Freedom of Information Act 2000 (FOIA).

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 states that the 'appropriate limit' for the ICO is £450. We have determined that £450 would equate to 18 hours work.

We have been able to run a report and have been able to determine that we currently hold 319 cases where the primary decision on the decision notice is about Section 36.

We would now need to manually search the correspondence held on each of these cases as we are unable to run a quick automated report on the type of information requested because it is not information we normally need for our purposes.

For external correspondence, we have completed a sample of six cases and can estimate that it would take 20.6 minutes to complete each search, and it is certain that some searches would take much longer than that. This would equate to over 109.5 hours' worth of searching which clearly exceeds the 18 hours so would accrue a charge of £450 or more, triggering the provisions of section 12 of the FOIA.

Please note, the above figures are only focussing on request 2, however, we are satisfied that all your requests are similarly related enough to be exempt under Section 12 as they all about the same overarching theme. This means that the figures quoted in the above paragraph would increase as we conduct other reasonable searches to determine if information for request 1 is held.

### **Advice and assistance**

You may be able to refine your request by:

- Asking for information within a particular timeframe.
- Asking for information from a particular case or cases.
- Asking for information relating to a particular data controller or data controllers.

Given the amount of manual searching required on the 319 cases, your request would not come under the 18 hours limit if you asked us to focus on either request 1 or request 2.

Please note, when the ICO receives requests which would involve checking through large amounts of correspondence, we would need to consider if it is in the public interest for us to dedicate the resources necessary to carry out these kind of searches or whether it represents an unreasonable burden on us as a public authority. Even if the searches to complete a request will take less than the 18 hours limit, a single request can still be refused if it deemed to represent an [unreasonable burden](#).

We have provided you with this information so you are aware that future requests may be refused but this does not necessarily mean this will happen and will be dependent upon the information requested. Please do not be discouraged from making future requests as we consider each one a case by case basis.

This concludes our response.

### **Next steps**

You can ask us to review our response. Please let us know in writing if you want us to carry out a review. Please do so within 40 working days.

You can read a copy of our full [review procedure](#) on our website.

If we perform a review but you are still dissatisfied, you can complain to the ICO as regulator of the FOIA. This complaint will be handled just like a complaint made to the ICO about any other public authority.

You can [raise a complaint](#) through our website.

## **Your information**

Our [privacy notice](#) explains what we do with the personal data you provide to us, and sets out [your rights](#). Our [Retention and Disposal Policy](#) details how long we keep information.

Yours sincerely



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