

9 January 2024

IC-274229-Q5Y5

Review of response to information request

I write further to your email of 14 December in which you requested a review of the handling of your request dealt with under the reference number IC-274229-Q5Y5.

Section 45 of the Freedom of Information Act 2000 (FOIA) requires the publication of a code of practice, designed to assist public authorities handle requests under the FOIA.

This guide recommends that public authorities put in place an internal review process for FOIA responses, which our guide suggests should be triggered whenever a requester expresses dissatisfaction with the outcome of a request they have made.

As a result we have conducted an internal review of our response to your information request which was handled under the reference number IC-274229-Q5Y5. I am a Senior Information Access Officer 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 4 December 2023 we received a request from you which sought the following information:

"I would take this opportunity to ascertain from you the number of complaints ICO has received against the Government Legal Department so far and if any 'case law' has been made relating to this area of conduct."

On 8 December we responded to your request, providing a breakdown of figures in respect of the first part of your request, and advising that no information was

held in respect of the second part of your request, explaining that the ICO is not a judicial body and does not make case law.

Review

On 14 December we received your request for internal review, the basis of which being that you feel that the second part of your request was misinterpreted because you were not asking if the ICO had made any case law but rather whether it was aware of any case law in this area.

I have reviewed the file and considered the wording of the request and our interpretation of it and confirm that I feel that our interpretation was a reasonable one.

You state that you are aware that ICO does not make case law and that you wanted to know whether we were aware of any case law, however this is not what you said in your original request. In your request you ask for the number of complaints that the ICO has received against the GLD and then ask whether "*any 'case law' has been made relating to this area of conduct*".

Your question is framed around the ICO's work and so it was reasonable to assume that the second part of your request also related to work that the ICO had done, rather than information the ICO was aware of.

Additionally, you have not defined what you mean by 'this area of conduct', and there is nothing in the correspondence about your complaint to suggest that you are concerned about a particular point of law in respect of the handling of your FOI request by the GLD which could be the subject of case law.

Indeed, your case officer asked you for clarification of the basis of your complaint as you had only stated a general dissatisfaction with the response you received, and you did not provide any, leading your case officer to advise that they would proceed on the basis that you are generally dissatisfied with the response from GLD as a whole.

As such you have not raised any point of law which would be capable of being the subject of case law, and the contents of your correspondence with GLD about the request contain nothing that would indicate any such matter is in dispute between you and them. Only the first part of your request provides any potential context to the second part and this related to the number of complaints received by the ICO about the GLD, and it was therefore reasonable to believe that the whole of your request related to concerns about GLDs general compliance with

the FOIA and record with the ICO rather than any point of law capable of being the subject of case law produced in the courts.

I therefore feel that your request was interpreted reasonably and do not uphold your request for internal review.

For completeness I have considered whether there is any information that we could have provided had we interpreted the request in the way set out in your internal review. However given that, as set out above, you have provided no information to explain what you mean by 'this area of conduct', we would not have been able to provide any information within the scope of this part of your request should we have interpreted it in this way.

If you do wish to make this request please resubmit it, making clear that you want to know if the ICO is aware of any case law, and providing some definition of what you mean by 'this area of conduct'. We will then process it as a new request under FOI, within the required statutory timeframes.

You also ask in your request for internal review whether the ICO has ever taken any institution to court and I can advise that we have, this is a core part of our function as a regulator and we have statutory powers to do so under the laws that we regulate. Lots of information is available online about regulatory action we have taken, and [this page](#) of our website would be the first place to look if you require more information about this.

Complaint procedure

If you consider that your request for personal data has not been dealt with correctly under data protection legislation, you have a right of appeal to this office in our capacity as the statutory complaint handler under the GDPR and Data Protection Act 2018.

To make such an application, please write to our public advice and data protection complaints department at the address below, or visit the '[Make a complaint](#)' section of our website.

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



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