

24 January 2024

IC-267840-D5B3

Review of response to information request

I write further to your email of 4 January in which you requested a review of the handling of your request dealt with under the reference number IC-267840-D5B3.

Section 45 of the Freedom of Information Act 2000 (FOIA) requires the publication of a code of practice, designed to assist public authorities to 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-267840-D5B3. I am a 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 1 November 2023 we received a request from you which sought the following information:

"Please provide the number of ICO FOI responses sent out of time in 2023 and how late they were (days).

And what these requests were and response (summarised, e.g. section 12, section 21 etc)

Provide this in a spreadsheet format (excel)"

On 23 November we responded and provided a CSV file containing the requested information. We also provided an explanation regarding where we had obtained the case summaries.

On 4 January you requested a review explaining:

"The response is wrong here. S11 of the FOI Act explicitly allows an applicant to specify a summary as the format they'd prefer the information to be provided in. It wouldn't be creating new information, but summarising existing information. The FOI regulator shouldn't be making mistakes as basic as this, and they should work out why it happened."

Review

I have reviewed the content, response and disclosure provided to you under case number IC-267840-D5B3. I believe the csv file provided contained the necessary case summaries and therefore satisfied S.11 FOIA.

The summaries were taken from two locations. If the request had been prepared for our disclosure log it was taken from there. If the request was not on our disclosure log it was taken from the case summary field on our case management system.

The only difference between these two summaries is the space available to summarise the request. The case summary box on our case management system is smaller than the space available on our disclosure log. However, the space is still sufficient enough to provide a summary of the request.

I agree with the original response when it mentions one method being more comprehensive than the other. However, I have a different opinion regarding summarising requests at first glance. I believe it is possible to summarise a response at first glance in most circumstances. The only possible exception would be when we could not understand a request. Our case summary on these occasions would simply show something along the lines of, "Confusing request, clarification required."

I have reviewed the summaries provided to you in the original disclosure and found no such examples.

With regards to our compliance with S.11 FOIA I note that the advice on our website includes the following:

"An example of the second scenario would be where a requester asks you for, "the council's report on its new healthy living initiative in the form of a summary". In this case, the requester is expressing a preference for communication by a particular means. Since they want you to summarise

the information they are interested in, section 11 applies. FOIA does not require a public authority to create new information to answer a request, so in this case you would not have to write a new summary. The question is whether you can produce a summary by extracting parts of the information that has been requested. In the example above, it may be possible to cut and paste paragraphs from the report to produce a summary. If this is not reasonably practicable, it may be reasonable to provide the full report instead.”

We have created a CSV file using Excel. This file contains summaries that we have cut and pasted from the information we hold and satisfies S.11 FOIA.

As a result, your review is not upheld. I appreciate this may not be the outcome you were expecting, but on this occasion, I consider our original response to be accurate and correct.

Complaint procedure

If you are dissatisfied with the outcome of this review you can [raise a complaint](#) to the ICO as regulator of the FOIA.

Any complaints will be handled just like a complaint made to the ICO about any other controller.

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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