

22 January 2024

IC-278807-Y3S7

Request

In summary, you asked us for a copy of a Notice of Appeal, as well as the grounds for appeal contained within, as sent by the Crown Prosecution Service ("CPS") to the General Regulatory Chamber ("GRC") in relation to the ICO's decision notice of 1 September 2023 under reference [IC-231535-Z0S7](#) and the associated appeal EA/2023/0520 at the First Tier Tribunal ("the Tribunal").

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

Our response

We neither confirm nor deny whether we hold the information that you have requested.

If the ICO held a copy of a Notice of Appeal as issued to the GRC for the purposes of this appeal, this information would be subject to the exemption at 32(1)(a) of the FOIA.

Section 32(1) of the FOIA states in full:

32(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 is a 'class' based exemption and is 'absolute', which 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 a request under the FOIA.

Section 32(4) expressly states that 'court' can also mean 'any tribunal or body exercising the judicial power of the state'. It follows that those tribunals which are part of HM Courts and Tribunals Service also fall within the exemption.

Section 32(3) further states that the duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of this section.

A Notice of Appeal issued to the Tribunal falls within the scope of section 32(1)(a) above, and as such is exempt from disclosure under the terms of the FOIA.

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.

There is also an interest in maintaining the integrity of other response in which the ICO has neither confirmed nor denied that we hold information requested. We are therefore satisfied that confirmation or denial of whether we hold the information that you have requested on this occasion would not be appropriate.

This concludes our response to your request.

Further advice and assistance

If you are seeking further information regarding appeal EA/2023/0520, we recommend that you apply to the GRC for this information directly. However, please be advised that courts are not themselves subject to the FOIA.

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



Information Access Team
Strategic Planning and Transformation
Information Commissioner's Office, Wycliffe House, Water
Lane, Wilmslow, Cheshire SK9 5AF
ico.org.uk twitter.com/iconews
Please consider the environment before printing this email
**For information about what we do with personal
data see our [privacy notice](#)**