

30 January 2024

IC-284625-W2W5

Request

On 26 January 2024 you made the following request:

What information do you hold please regarding the provision of inaccurate and incomplete medical records by a health authority to a patient?

What can a person who has been provided with inaccurate and incomplete medical records do in terms of obtaining legal redress?

Can that person apply to Court for an audit trail of those records, for example? If so, under what legislation can such an application be made?

What information do you hold please regarding the provision of inaccurate and incomplete medical records of a deceased person? In the event that the executor of the estate of the deceased receives inaccurate and incomplete medical records from a health authority, what can the executor do? Does the executor have the right to apply to court for an audit trail? If so, under what legislation?

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

Response

We are unable to confirm or deny the extent to which the requested information is held. Section 12(2) of the FOIA states that a public authority is not obliged to confirm or deny if requested information is held if the estimated cost of establishing this would exceed the appropriate cost limit. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 stipulates that the 'appropriate limit' for the ICO is £450. We have determined that £450 would equate to 18 hours work.

This is due to Q1 and Q4. We consider that the other two parts of your request (and parts of Q4) are queries/requests for advice, rather than requests for recorded information, and these are addressed on page 3 of this letter.

The ICO's role is to uphold information rights in the public interest. We may deal with information about medical records, and provision of this information to patients as part of our work (for example if a patient requests their records from a health organisation and then complains to the ICO about the outcome), but to locate and compile all (if any) relevant instances would involve a significant investment of resources. This is because we do not maintain a centralised list of all information that relates to this topic, nor do we categorise our casework in this way, so it would not be possible to electronically locate and extract in scope items.

Instead we would have to conduct extensive manual searches to locate any relevant information. As you have not specified what type of information you are looking for, we would need to consider all areas of our work in which we may have reason to consider this topic. Even if we focused only on, for example, data protection complaints recorded within our case management system, this covers thousands of cases within one year alone, and each case contains multiple items that would need to be searched individually.

To give an example of the work involved, we hold well over 10,000 complaint cases on our current case management system for 2023 alone. Even if we only focused on data protection complaints involving health organisations, this still amounts to over 5000 cases within a one year timeframe. If it only took one minute per case to search 5000 of these cases – and it is certain that some searches would take much longer than that – this would equate to over 80 hours' worth of searching, which would certainly exceed the 18 hours which would accrue a charge of £450 or less, triggering the provisions of section 12 of the FOIA.

Advice and assistance

As mentioned, the ICO is the regulator for information rights legislation, and you can find out more about what we do and the legislation we regulate [here](#), as well as [the information we publish about our work](#). We publish information about the complaints we receive, and investigations undertaken [here](#). Our [data protection complaints datasets](#), for example, which may be of most relevance in relation to your request, can be filtered by organisation type and other details.

Our [annual reports](#) also summarise the work that we do.

In terms of the queries you have raised as part of Q2, Q3 and Q4, you can find out about your information rights on our website [here](#). We are not able to offer information about legislation outside the laws we regulate. Please note that data protection legislation only applies to living individuals, so it is unlikely that we hold any information relating to the medical records of deceased individuals and with this in mind the ICO may not be the best organisation to assist you with that particular topic. As you can see from the links provided, the information we hold focuses primarily on the legislation we regulate and our regulatory functions.

If you want to seek advice on a specific matter or make a complaint in relation to this, you can contact us about this [here](#).

We have considered how you might be able to refine Q1 and Q4 to bring these within the cost limit. We could, for example, consider a request about a specific type of information that we hold, e.g. data protection complaints relating to specific data controllers within the health sector, or requests with more specific parameters (e.g. in terms of date range, type of information or case). Please also note that exemptions may apply to certain types of information, for example if any of the information we hold would enable the identification of individuals.

Any request that requires us to manually search large numbers of records is likely to exceed the appropriate limit, and the accuracy of any such searches could not be guaranteed. Consideration can also be given as to whether the value to the public of any resulting information is proportionate to the effort to locate it, particularly given the issues regarding accuracy described.

This concludes our response to your request.

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](#)**