

12 February 2024

Reference number: IC-282722-NOT6

Request

You asked us: "1. Over the past six months, how many Freedom of Information request appeals against the Information Commissioner's Office have been dismissed or allowed by the First Tier Tribunal (FTT) (whether on the papers or with an in-person or online hearing) without the ICO submitting a skeleton argument? 2. Over the past six months, how many Freedom of Information request appeals against the Information Commissioner's Office have been dismissed or allowed by the First Tier Tribunal following an in-person or online hearing without the ICO attending or being represented at the hearing?"

We received your request on 16 January 2024.

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

Our response

We can confirm that we hold information that falls under the scope of your request. However, finding, retrieving and extracting the information 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.

To locate the information you have requested would require a manual search of 88 cases for request 1 and 36 cases for request 2. We obtained these figures by reviewing our management information systems that the ICO holds for closed cases. A case needs to be closed in order us to record this information on our case management system.

Manual searches are required because the requested information is not information we normally need for our purposes and we are unable to run a quick automated report for the type of information requested. Additionally, it is not information that the ICO specifically records.

In order to consider all the information you are entitled to, for both of your requests, we would also need to manually review our open cases, which currently total 434.

It was previously considered that open cases would not contain information in the scope of your request, however, upon reflection, it is now apparent that some of these cases will hold information in the scope of your requests. This is where the FTT has decided upon a case but the amended status has not yet been updated onto the management information system. We have to consider all these cases as we are not able to determine which cases hold information in scope and which do not unless they are manually reviewed.

For the closed cases, we have completed a sample of five cases and can estimate that it would take eight minutes to complete each search - and it is certain that some searches would take much longer than that - this would equate to over 16.5 hours' worth of searching.

For open cases, we have not completed a sample as even at one minute per case - and it is certain that the searches would take much longer than that - this would equate to 434 minutes worth of searching. When combined with the 16.5 hours mentioned above, this would total approximately 23.75 hours' worth of searching. This clearly exceeds the 18 hours which would accrue a charge of £450 or more, triggering the provisions of section 12 of the FOIA.

We would also like to explain that we are satisfied that your requests are similarly related enough that they should be combined for the purposes of us considering if the cost limit is exceeded. This is because they all about the same overarching theme; cases dismissed or allowed by the FTT.

Advice and Assistance

You may be able to refine your request by:

- Asking for the requested information within a reduced timeframe.
- Asking for the requested information relating to a particular public authority or public authorities.
- Asking for the requested information from a particular case or cases. You can locate previous cases via this website: [Information Tribunal > Search \(tribunals.gov.uk\)](https://www.tribunals.gov.uk)
- Asking for the requested information from either closed or open cases.
- For request 1, asking for information from, either, on the papers cases or in-person/online hearing cases.

We can also advise that either request 1 or request 2, when considered in isolation, would not exceed the cost limit, if only closed cases were considered.

If the request can be brought under the cost limit, as we still need to complete manual searches, we would need to consider if it is in the public interest for us to dedicate the resources necessary to carry out this kind of search, 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 is 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.

We would also like to advise you that outcomes to FTT cases are made public via this [website](#). If you have any other queries about FTT cases, you may find it beneficial to review this website.

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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