

5 March 2024

Case reference: IC-284132-L7L0

Review of response to information request

I write further to your correspondence of 16 February, in which you asked for a review of the handling of your request of 25 January. This was dealt with under our reference IC-284132-L7L0

Section 45 of the 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 request for recorded information under FOIA in question 2. Questions 1 and 3 were responded to outside of FOIA as queries/requests for advice.

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.

Review

The purpose of this review is to look again at your request and the response that was provided to question 2. I can confirm that I have reviewed the case and I am satisfied that the response was correct and your internal review is not upheld. I have provided further details on my review below.

Request and response

On 25 January you asked the following:

"Q2. Please list all complaints lodged with you the ICO where a complaint has raised concerns relating to a violation of their image rights publication?"

On 30 January we responded to your request for recorded information in question 2, under section 12(1) of the FOIA.

Section 12(1) of the FOIA allows a public authority to refuse to comply with a request for information where the cost of compliance is estimated to exceed the appropriate 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.

You can find further guidance about section 12 of the FOIA online [here](#).

In our response we provided details of why the cost of complying with your information request would exceed the appropriate limit, along with how you may be able to refine the request to bring it under the appropriate limit.

In your correspondence of 16 February, where you requested an internal review, you asked the following:

"I would like you to run an electronic search query across your entire database of cases on all cases containing the phrase 'image rights', thus avoiding manually searching your case files and thus saving on both time and money to not fall foul of section 12."

We are not able to run an electronic search of our casework management system for a phrase (text) held in records on complaint cases. Reports can be run for category fields that have been inputted on to the system but we do not have a category field for 'image rights' or 'image rights publication'. An example of the type of reports we can extract are available on our website [here](#), in the form of completed casework datasets.

A complaint case does have a searchable case summary (title) which is free text of a limited number of characters which may include the nature of the complaint. However, due to the limited space available (150 characters) any case summary will not reflect the full content of a complaint, and would not be sufficient to determine whether we held the requested information or not. The case summary is typically used for basic identifiers, such as complainant name, organisation name and the relevant legislation, meaning there is little or no space to add a case description.

As explained in the response of 30 January, the only way we could identify if we hold any data protection complaint cases that contain concerns about image rights publication would be to manually check the records on each case. This would entail searching the content of the correspondence provided to us by the complainant.

We deal with a large number of data protection complaints. You can find more information about our caseload each financial year in our annual reports [here](#). In line with our retention schedule, we hold completed casework records for a period of two years. The time it would take to search these individual cases would far exceed the appropriate limit at section 12 of the FOIA.

Where a public authority claims that section 12 is engaged, it should where reasonable, provide advice and assistance to help the requestor refine the request so that it can be dealt with under the appropriate limit. This was provided to you in the response.

We also advised that FOIA exemptions may apply to the information within scope of a refined request. For example, section 40(2) of the FOIA which is the exemption concerning personal information.

I hope the explanation provided above is helpful.

Complaint procedure

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/>.

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,

Claire Elliott
Senior Information Access Officer

ico.

Information Commissioner's Office

ico.

Information Commissioner's Office

Information Access Team

Risk and Governance Department, Corporate Strategy and
Planning Service

Information Commissioner's Office, Wycliffe House, Water
Lane, Wilmslow, Cheshire SK9 5AF

ico.org.uk twitter.com/iconews

**For information about what we do with personal
data see our [privacy notice](#)**