

3 April 2024

### **Case Reference IC-290288-R3X3**

#### **Review of response to information request**

I write further to your email of date in which you requested a review of the handling of your request dealt with under the reference number IC-290288-R3X3

As a result, we have conducted an internal review of our response to your information request which was handled under the above reference number. I am a Group 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 5 February 2024 we received a request from you which said:

*The purpose of this FOIA request may be a watershed moment in ICO thinking, so I would ask it is giving the utmost respect.*

*Every organisation has access to Legal Professional Privileged LPP advice.*

*Under the FOIA and as per attached please provide any information the ICO hold on what is "hypothetical LPP" under section 42 FOIA about a person? Information held or personal data. Please also provide advice and assistance.*

*Definition of hypothetical;-Not necessarily true.*

The request was largely similar to previous requests such as case IC-266900-P4L4. It substantially repeats the earlier requests on this topic and refers back to the DBEIS decision from 30 years ago. You have been contacting the ICO regarding this matter in various capacities since at least 2013. The history of your longstanding campaign has been comprehensively described in the Commissioner's FOI decisions in FS50463281 from 2013, and FS50645026 from 2017.

Therefore, taking into account the previous history of your contacts with the ICO on this matter, and the ICO's subsequent responses to you, Section 14(1) was applied to this matter. No response was issued as per Section 17(6) of FOIA, as the ICO declined to do so. Section 17(6) of FOIA allows a public authority to not issue a refusal notice if it

considers the request in question is vexatious, has refused an earlier request from that person as vexatious and, in all the circumstances, it would be unreasonable to issue a further refusal notice.

### **Review**

As a consequence, you requested an Internal Review on 8 March 2024 as follows:  
*I ask for an internal review to my FOIA request of the 5 February 2024 as per below.  
I attach the same document as before with more details to show purpose.*

The purpose of this review is to look again at your request, to ensure that the decision was correct and that the exemptions applied were appropriate.

I can confirm that I have reviewed the correspondence on the information request and will respond to the comments made.

I acknowledge the provisions of the FOIA, notably the requirement to respond to requests promptly, and no later than the 20th working day of a request being submitted. However, on this occasion, the ICO is reliant on Section 17(6).

Aside from you receiving this response previously, and via various methods e.g. Casework, complaints, and correspondence with the ICO and other public authorities, we considered the broad issues prior to applying Section 14(1) in the first instance:

- the burden imposed by the requests on the Information Access (IA) Team of the ICO;
- the motive of requests;
- the value or serious purpose of the request and;
- the effects of the requests and behaviour deemed both harassing and distressful to staff.

These considerations are not meant to be exhaustive.

When considering the application of Section 14(1), IA considered the context of the request and the history of its relationship with you as the guidance explains:  
*"The context and history in which a request is made will often be a major factor in determining whether the request is vexatious, and the public authority will need to consider the wider circumstances surrounding the request before making a decision as to whether section 14(1) applies".*

IA considered all the requests submitted, and other correspondence with IA – mostly of a similar nature – prior to arriving at this conclusion that the request is part of a persistent pursuit of claims, complaints, and correspondence despite the fact that these have already been answered via various methods including FOI over many years.

Moreover, the fact that the requests have been answered previously under the FOI Act and, rather than follow the advice which has been provided or seeking clearly recorded information, the intent of the requests appear to be the seeking of further engagement with IA and the ICO as a whole in respect to the responses previously provided.

Where IA receive requests in similar themes, tone, or context to earlier requests, I will reiterate to you that we will no longer issue refusal notices as per Section 17(6) of the FOI Act.

We will of course, consider requests from you of a different nature. These will be handled these within the legislation and considered accordingly.

For these reasons, your review is not upheld.

### **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/>

Yours sincerely

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