

14 May 2024

IC-300351-M2T4: Internal Review Response

I write further to your email of 13 May 2024, in which you asked us to review the handling of your information request, processed under case reference IC-300351-M2T4.

My name is Sarah Coggrave and I am a Senior Information Access Officer. I can confirm that I have had no prior involvement in the handling of this request. My role is to review the application of the Freedom of Information Act 2000 (FOIA) in relation to your request.

Section 45 of the FOIA requires the publication of a code of practice, designed to assist public authorities handle requests under this legislation.

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.

Review

The purpose of this review is to look again at your request and the way it was handled.

Your request was as follows:

- 1/ is an ico ruling on an FOI request legally enforceable.*
- 2/ how many FOI requests do you investigate in the past 12-month period from today's date.*
- 3/ how many FOI request decisions are over turned by the ico in the past 12-month period from today's date.*
- 4/ what is the percentage of FOIs are over turned by the ico in the 12-month period from today's date.*

You subsequently sent a follow-up request:

A/ So, how many FOIs have the ico overturned.

B/ how many FOIs have the ico have been asked to look at.

C/ how many FOIs relate to Police forces.

D/ how many FOIs relating to Police forces have been overturned

I have reviewed the handling of the request and agree that question 1 is not a request for recorded information so the request handler correctly responded to this as a query, by providing a link to relevant guidance on our website.

Questions 2-4 and A-D are covered by [the data sets we publish on our website, our annual reports](#), and by information that we have committed to publish (including future data sets and our latest annual report is due to be published in a few months' time). As the request handler stated, our data sets can be filtered using a range of criteria including by sector and/or public authority (which will help with parts C and D of your request), and outcome (parts 3, 4, A and D), and our annual reports also provide summaries for each year. Figures or percentages can be calculated from the information we publish or are due to publish.

FOIA Section 21

I agree with the decision to withhold the information that is already publicly available using Section 21 of the FOIA. Section 21 exempts information which is reasonably accessible to the applicant through means other than a request under the FOIA.

[Our guidance](#) states that before applying section 21, we must consider if the applicant can actually and reasonably access the information they requested. This means checking that:

- the information in the public domain matches what the applicant asked for;
- precise directions have been given to the applicant to enable them to find it; and
- this information is reasonably accessible to the applicant, based on their particular circumstances

I have checked the information and can confirm that it exists, falls within scope of your request and is already available in the public domain via our website. I have also checked the links that the request handler has provided in the response. I can find no fault with any of these, and each signposts to information that falls within scope of your request. It is reasonable for the request handler to

have assumed that, as you are contacting us via email, that you have internet access, and that by providing links in a format that works within commonly used software and browsers that you would be able to access the information.

FOIA Section 22

Where information that falls within scope of your request is not yet publicly available, I agree with the decision to withhold this using Section 22 of the FOIA, on the basis that this information is due to be published in the future. For the exemption at Section 22 to apply, the public authority must, at the time of the request, hold the information and intend that it or 'any other person' will publish it in future. This means that it must have a settled expectation that the information will be published at some future date.

I agree with the request handler that these conditions are met, and the ICO has a proven record of publishing both the data sets and annual reports mentioned above, on a regular basis.

Section 22 is a qualified exemption and therefore public authorities must consider whether the public interest in maintaining the exemption is greater than the public interest in disclosing the requested information.

While I agree there is a public interest in disclosure of the information you have requested (where this is not already publicly available), I also agree with the request handler's assessment - that earlier disclosure is not necessary to satisfy any pressing public interest at present, and that to prepare the information prior to intended publication would not be an efficient use of resources, particularly given that the ICO has a record of publishing this information regularly. Taking this into account, I consider that Section 22 has been correctly applied.

Historic information

In relation to parts A-D of your request, which do not specify a timeframe, it is also worth noting that we retain information in line with [our retention policy](#), so any information about FOI casework that is older than two years, is unlikely to be retained. However, you can access some historic data sets, reports and request responses by visiting the archived version of our website [here](#).

Section 16

As part of my review I also considered Section 16 (duty to provide advice and assistance), and am of the view that the response was sufficiently clear in stating

that we hold relevant information, and why this has been withheld. The request handler also signposted to relevant resources on our website.

It might also be worth noting that if you are interested in our decision making, you may find it helpful to look at [action we've taken](#), including the [decision notices](#) we publish on our website.

While I appreciate that the response to your information request was not what you were expecting, and that this may be disappointing, I do not uphold your request for internal review. This is because I consider that the response provided was correct and compliant with the legislation.

If you disagree with the outcome of this internal review, and want to pursue this further, please follow the next steps provided below. This concludes my response to your internal review request.

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/>

Your rights

Our [privacy notice](#) explains what we do with the personal data you provide to us and what your rights are, with a specific entry, for example, for [an information requester](#). Our retention policy can be found [here](#).

Yours sincerely,



Sarah Coggrave
Senior Information Access Officer
Information Access Team
Strategic Planning and Transformation
Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF
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