

1 May 2024

ICO Reference: IC-293133-X2B2

Review of response to information request

I write further to your email of 9 April 2024 in which you requested a review of the handling of your request dealt with under the reference number IC-293133-X2B2.

Section 45 of the Freedom of Information Act 2000 (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 information request. I am a Team 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 10 March 2024 we received a request from you which sought the following information:

Pursuant to the Freedom of Information Act 2000, please supply statistics from the Information Commissioners Office which show what percentage (or absolute number) of DSAR complaints to the ICO were overturned on appeal.

This data should be provided since the Data Protection Act 2018 came into force, in the following format:

	2018	2019	2020	2021	2022	2023	2024
<i>Total DSAR complaints received</i>	<i>As an absolute number</i>						
<i>Total DSAR decisions appealed</i>	<i>As an absolute number or percentage</i>						
<i>Total DSAR decisions overturned on appeal</i>	<i>As an absolute number or percentage</i>						

For the avoidance of doubt:

- *A DSAR complaint is one in which a data subject complained about not being provided data or being provided with incomplete data*
- *A DSAR decision is a ruling from the ICO either for or against the data subject*
- *An appeal means an appeal by the data subject of the ICO's ruling*
- *An overturned appeal is an appeal in which the ICO changed its ruling – typically in favour of the data subject*

On 2 April 2024 we responded by advising you that fulfilling your request would exceed the cost limit set out by Section 12 of the FOIA, and that your request was therefore refused. We also provided advice on how you may be able to refine your request, as well as providing links to our annual reports, data protection complaint datasets and complaints and concerns datasets.

Review

The purpose of an internal review is to look again at your request, at our response, and to check that any exemptions applied were appropriate. I will therefore firstly look at our application of Section 12, and I will then address any questions relevant to this review that you have asked in your emails of 6 April 2024 and 9 April 2024.

In our response of 2 April 2024, we explained to you in detail why we considered that Section 12 applied to your request. Having reviewed this response, I am satisfied that Section 12 has been utilised appropriately. I also believe that you were provided with appropriate advice and assistance as to how you may be able to refine your request to bring it within the cost limit.

Throughout your correspondence following our response of 2 April, you have expressed your opposition towards our application of Section 12. This appears to stem from dissatisfaction with the manner we hold records of complaints. Whilst your comments are noted, it does not change the fact that to establish which complaints are in scope of your request, it would require us to carry out searches that would clearly exceed the cost limit as set out by Section 12. I also note that you have now been provided with a response to a revised request under case reference IC-298861-Y5W4.

In your email of 9 April, you also asked the following:

'Clarifying why if you can provide a quarterly summary, with the other key details included, the ICO can't simply add the linked appeal fields to the same report?'

Our initial response letter explained to you that the reason Section 12 was applied to this request was the fact that establishing whether particular complaints were in scope of your request would require a manual search of thousands of cases, which is position that I agree with.

Even if an 'appeal field' was added to the quarterly datasets, due to the wording of your request it would not change the position of Section 12 being applied, as it would still require the searching of complaints directly

on our case management system to identify cases in scope of your request. In addition, your initial request did not ask for our quarterly summaries with an appeal field attached, so I consider this line of questioning changes the parameters of your original request.

You also state the below:

The position of the ICO was that it could not fulfil the request within the £450 limit. This was "refused under section 12" on the grounds that it would take too much work. The only way this could have been determined was if you were advised the systems could not fulfil the request. However you are now claiming you do not know whether these systems could in fact fulfil the request and refuse to confirm it, which is clear admission that you have denied the request without any supporting data. Needless to say this will be brought to the attention of the General Regulatory Chamber in any claim against the ICO.

I do not accept this argument. A full explanation has been provided as to why Section 12 was applied, and the case handler did not state they do not know whether our systems could fulfil your request.

Lastly, in your emails of 6 April and 9 April, you raised concerns that some of the references to the UK GDPR used by the case handler are not valid. In our response of 9 April, we explained that the reference numbers cited were those used in our casework management system. For example, you have stated that reference Article 15(3)(1) does not exist. Whilst Article 15(3)(1) does not exist within the legislation, for the purposes of recording case details we have separated Article 15(3) into three separate labels so that we can more accurately record what a specific complaint is about. These are as follows:

- Article 15(3)(1) – 'Provide a copy of the personal data'
- Article 15(3)(2) – 'Charge for further copies'
- Article 15(3)(3) – 'Provide information in electronic form'

You will note that these three subdivisions relate to the text of Article

15(3).

For the reasons outlined above, your internal 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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