

31 July 2024

IC-319956-X1D3

Request

You asked us:

"On your website, on the page concerning the EIR exception regulation 12(5(d) EIR, a case it cited as an illustrative example of what is meant by "proceedings". The case cited is the Upper Tribunal decision Department for the Economy (Northern Ireland) v Information Commissioner and White (GIA/85/2021). I have been unable to find the UT judgement online or on legal databases such as Lexis and Westlaw, and wondered whether you would be able to share a copy of the UT judgement or were able to signpost me to where it is reported so that I can download the judgement myself."

We received your request on 17 July 2024.

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

Our response

We can confirm that we hold a copy of the information you are seeking. Unfortunately the copy we hold is the signed copy of the decision which was provided to us by the Upper Tribunal and is not intended for publication or wider disclosure. This information is exempt from disclosure under section 32 of the FOIA, which is explained further below.

We would recommend that you contact the Upper Tribunal directly to ask if they are able to provide a copy. The email address for the Upper Tribunal (Belfast) is tribunalsunit@courtsni.gov.uk

Section 32

The information which you have requested is exempt under section 32 of the FOIA which relates to Court documents.

Section 32(1) of the FOIA states;

"Information held by a public authority is exempt information if it is held only by virtue of being contained in –

- a) any document filed with, or otherwise placed in the custody of, a court for the purposes of proceedings in a particular cause or matter,
- b) any document served upon, or by, a public authority for the purposes of proceedings in a particular cause or matter, or
- c) any document created by –
 - (i) a court, or
 - (ii) a member of the administrative staff of a court,for the purposes of proceedings in a particular cause or matter."

Section 32 is a 'class' based exemption and is 'absolute', which means that if the nature, or class, of the information held falls within the scope of the exemption it need not be provided in response to a request under the FOIA. Therefore we do not need to consider whether disclosure of the information in question would prejudice the functions of the ICO or other parties, nor is it necessary to consider any public interest test.

The information you have requested falls within the scope of section 32(1)(c) above, and as such is exempt from disclosure under the terms of the FOIA.

This concludes our response. We appreciate that this response may be disappointing but hope the information provided is helpful.

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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