

# Do I have to create information to answer a request?

## Freedom of Information Act 2000

### Information held: retrieving and compiling information from original sources

The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) give rights of public access to information held by public authorities. This is part of a series of guidance notes to help public authorities understand their obligations and to promote good practice.

This guidance will help public authorities to decide whether they hold information for the purposes of FOIA and EIR. It will explain the difference between extracting or compiling existing information and creating new information.

#### Overview

The FOIA and the EIR apply to information held by public authorities. They do not have to create new information to respond to requests. A public authority is not creating new information where:

- it presents information it holds in the form of a list or schedule;
- compiling an answer to a request involves simple manual manipulation of information held in files; or,
- it extracts information from an electronic database by searching it in the form of a query.

#### What do the Act and the Regulations say?

Section 1 FOIA states that any person making a request for information is entitled to be told whether the public authority holds the information requested and, if held, to be provided with it.

Section 84 FOIA defines information for these purposes as information recorded in any form.

Section 11 FOIA requires a public authority to provide information in the manner requested if this is reasonably practicable.

Regulation 3(2) EIR states that environmental information is held by a public authority if it is in the possession of the authority and has been produced or received by the authority.

Information held:  
retrieving and compiling information from original sources

## Lists and Schedules

Public authorities frequently receive requests for lists or schedules of documents, correspondence or other information where the list itself is not in existence. In considering such a request you should remember that the FOIA and the EIR are about the provision of information held on record. Where it is possible to extract the information requested and present it in the form of a list or schedule, this does not amount to the creation of new information.

### Example

The Commissioner required a government department to provide information in the form of a schedule. The department had suggested that this would amount to creating new information.

“The information already exists: the public authority cannot be said to be creating it. And, while producing a list of the documents in which the relevant information is contained may be a new task, it is not creating new information; it is simply a re-presentation of existing information as a by-product of responding to the information request.”

ICO decision notice [FS50070854](#)

## Simple manual compilations

The simple manipulation of information contained in separate sources is not the creation of new information. Requests for information are frequently started with words like “How much...” and “How many...”.

Examples might include such requests as:

- How many pupils at the local Grammar School live outside the boundaries of the District Council?
- How much did Councillor X claim in taxi fares last financial year?
- How many laptops belonging to the Department and its executive agencies were stolen in each of the last three years?

For the purpose of these hypothetical examples, information about the geographical area of the district council and the residence of the pupils, the expense claims of Councillor X and reports of stolen equipment are kept in individual and separate records of the authority receiving the request. If this calculation or collation has not already been done, answering this sort of request would require the authority to manually search separate documents containing the information to calculate a total. This type of simple

Information held:  
retrieving and compiling information from original sources

manipulation of information on record would not normally amount to the creation of new information. It is presenting information in a different form from that in which it is held. There may be cost issues to be considered under section 12 of the FOIA in retrieving and extracting the information required to answer the request, but this is a separate matter.

What amounts to a simple rather than a complex calculation depends on the level of skill and judgement required to carry out the task. If extracting the information relevant to the request requires a high level of skill and judgement, this would amount to creating new information not already held.

In the first example above, it may need knowledge of whether addresses are within the area of the local authority to determine if a pupil resides there. If this were to be considered too complex a judgement for members of staff handling the request, the public authority should, as good practice, offer the information that can be easily extracted. In this example, assuming that this is held on file, subject to data protection and other considerations, it might be a list of the first part of the post codes of the addresses of pupils.

**Example:**

A request was made for:

- (a) the number of claims allocated to individual Queens Bench Masters for the years 2001, 2002, 2003 and 2004; and,
- (b) the number of Strike Outs of claims by individual Queen's Bench Masters for the years 2001, 2002, 2003 and 2004.

Case files for the courts would contain a copy of every document relating to the case. The Information Tribunal concluded that the information requested was held in these files. Although it had not been previously compiled in the form requested, a response to the request could be found in the contents of the case files. (It was, however, agreed that the cost limit would be exceeded in retrieving and extracting the information.)

[Mr M L Johnson v Information Commissioner and Ministry of Justice \(EA 2006/0085; 13 July 2007\)](#)

### **Extracting information from electronic databases**

By their very nature, electronic databases are designed to make use of the information recorded in them. Individual items of information are stored in fields. Tables are made up of a number of fields. It is possible to extract information from a database by sorting or filtering the data sources, running a report, or by using a database query tool.

In compiling information from records that need to be examined manually, the complexity of the calculation is a factor to take into account when

Information held:  
retrieving and compiling information from original sources

considering whether information is held. The complexity of the query made of an electronic database is not a factor to take into account in deciding whether or not information is held. All information held in electronic databases is held for the purposes of the FOIA. Any query that can be made of a database amounts to retrieval and extraction of information and not the creation of new information.

#### **Example**

The Information Tribunal did not accept the suggestion that running a new report in a database would involve "research" or the "creation" of new information. In running existing reports or newly written reports information comes from the same database. No new information needs to be collected in order to obtain information by running a new report.

[Home Office v Information Commissioner \(EA/2008/0027; 15 August 2008\)](#)

#### **Other considerations**

For general guidance on what information is caught by FOIA see our [Awareness Guidance No.12: When is information caught by the Freedom of Information Act?](#) .

#### **More information**

This guidance will be reviewed and considered from time to time in line with new decisions of the Information Commissioner, Tribunal and courts on freedom of information cases. It is a guide to our general recommended approach, although individual cases will always be decided on the basis of their particular circumstances.

If you need any more information about this or any other aspect of freedom of information, please contact us.

Phone: 0303 123 1113

Website: [www.ico.org.uk](http://www.ico.org.uk)