

Your Reference:
Our Reference: 1002064

D Merccer
By e-mail to:
request-30375-237f2f2c@whatdotheyknow.com

01 June 2010

IPCC Contact:
Philip Johnston
Tel: 020 7166 3000

Dear Mr Merccer,

YOUR REQUEST FOR INFORMATION

I am sorry about the delay in replying to your e-mail of 8th March 2010 in which you request information about costs associated with judicial reviews of IPCC decisions.

You refer to a previous freedom of information request by Mr P Swift made via the [whatdotheyknow.com](http://www.whatdotheyknow.com) web site ([http://www.whatdotheyknow.com/request/costs associated with judicial r](http://www.whatdotheyknow.com/request/costs_associated_with_judicial_r)) and the Commission's refusal to respond to questions 1, 2, 4, 5 and 6 of that request on the ground that it was estimated that the task of locating, retrieving and extracting the relevant information from the 128 files concerned would exceed the cost limit under section 12 of the Act (known as the "appropriate limit). The IPCC suggested to Mr Swift, however, that he may wish to make a separate request for the data contained in 20 judicial review case files because it was estimated that this data could be retrieved in only 13 hours which, when taken together with the time already committed to ascertaining what information was held in relation to the request, would represent a commitment of time not exceeding the £450 cost limit that applies to the IPCC.

Specifically, you request 'the 4th batch of 20 judicial (61 to 80) review case costings'

Regulation 5 of The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 provides that two or more requests to a public authority can be aggregated for the purposes of calculating costs if they are:

- by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign;
- for the same or similar information; and
- the subsequent request is received by the public authority within 60 working days of the previous request.

As stated in guidance from the Information Commissioner, 'the intention of this provision is to prevent individuals or organisations evading the appropriate limit by dividing a request into smaller parts'.

Including your request, the IPCC has received five requests referring to Mr Swift's original request and asking for data from 20 judicial review case files. The details of these other requests, all of which have been made via the [whatdotheyknow.com](http://www.whatdotheyknow.com) web site, are as follows:

1. Request from Paul received at IPCC on 24th February 2010 for 'the first 20 judicial review case costings' – see [http://www.whatdotheyknow.com/request/judicial review costs](http://www.whatdotheyknow.com/request/judicial_review_costs) Paul has also left an

- annotation on the web page relating to your original request confirming that he has requested the costings for the first 20 judicial review files and stating 'I suggest other users request the other items in sets of 20 and post links here'.
2. Request from P Swift received at IPCC on 25th February 2010 for 'the second batch of 20 case files' – see http://www.whatdotheyknow.com/request/costs_associated_with_judicial_r In a separate annotation of the same date, P Swift states: 'I have also sent PM's to those who have annotated out whatdotheyknow requests I have made asking that they consider making a request for the subsequent set of case files.....'.
 3. Request from Mr Andrews received at IPCC on 25th February 2010 for the costings from 'the 3rd batch of 20 case files' – see http://www.whatdotheyknow.com/request/judicial_review_costs_num_2#comment-9994
 4. Request from Sarah Joseph received at IPCC on 4th March 2010 for 'the 5th batch of judicial (81 to 100) review case costings' – see http://www.whatdotheyknow.com/request/judicial_review_costs_5

I find that all five requests have clearly been co-ordinated by means of the whatdotheyknow web site so that in accordance with Regulation 5 they can be aggregated for the purposes of calculating the appropriate limit. As explained in the Commission's decision notice in response to Mr Swift's original request, it is estimated that locating, retrieving and extracting from each judicial review case file the data in answer to questions 1, 2, 4, 5 and 6 would take approximately 40 minutes. When aggregated with the four requests listed above, the data you request would have to be extracted from a total of 100 case files with the result that the appropriate limit of £450, or 18 hours work at £25 per hour, would clearly be exceeded.

Therefore, the IPCC is under no obligation to provide the information you have requested because it is exempt under section 12 of the Act.

When applying section 12, a public authority is required to consider what, if any, information could be provided within the cost ceiling. I have asked the IPCC finance department for an indication of what information concerning litigation against the IPCC is routinely recorded in a systematic way so that meaningful data relating to your area of interest can be produced to you from existing records.

Also query whether any policy as to JRs exists.

I recognise that this response is a number of weeks outside of the statutory 20 working days in which public authorities must normally respond to freedom of information requests.

If you are not satisfied with this response you may request an independent internal review by our FOI appeals officer, who has had no involvement in dealing with your request. If you wish to complain about any aspect of this decision, please contact:

Freedom of Information Act Complaints
IPCC
90 High Holborn
London
WC1V 6BH

E mails should be clearly marked 'Complaint against FOI decision' and sent to: foi@ipcc.gsi.gov.uk.

Should you remain dissatisfied after this internal review, you will have a right of complaint to the Information Commissioner; however, I should point out that under section 50(2)(a) of the Freedom

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of Information Act, you are normally obliged to exhaust the public authority's own internal complaint mechanism before complaining to the Information Commissioner.

Available information regarding judicial reviews involving the IPCC

For the reasons given in response to Mr Swift's original request the IPCC is under no obligation to carry out the work necessary to produce the information you and others have requested in relation to judicial reviews involving the IPCC. We have, however, attempted to reconcile information available from on-line legal sources with the limited information which is readily available from our IPCC legal department's records of past applications for Judicial Review. Using the results of this exercise, we have produced a list of 17 cases which featured the IPCC as a party to Judicial Review, either as Claimant or Defendant, where the judgment of the court has been reported. I would emphasise that this is not a complete list of all Judicial Review cases which the IPCC has dealt with. Many applications do not receive the necessary permission of the court to proceed to a full hearing. There may also be other applications which have gone to a full hearing but which have not been reported.

Details of the outcomes of the cases numbered 5 to 17 are available by entering the case name and / or the citation on the BAILII web site (www.bailii.org). The outcome of each of the remaining four cases is included in the list.

I hope that you find this information helpful.

Yours sincerely

Philip Johnston
Independent Police Complaints Commission