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BritCits
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4 September 2015

Dear BritCits

Freedom of Information request: CR33710 – internal review

Thank you for your e-mail of 8 April (11:19hrs) in which you asked for an internal review of the response to your Freedom of Information (FOI) request. Your request asked for information relating to Immigration and Asylum legal expenditure between 2010-14.

I have now completed the review and have assessed the substance of the response provided to you. I can confirm that I was not involved in the initial handling of your request.

The FOI response disclosed most of the information that you requested, but explained that it was not possible to breakdown the expenditure for the period 2010-11 without exceeding section 12 (Exemption where cost of compliance exceeds appropriate limit) of the Freedom of Information Act (the Act) 2000.

This review is based on the points you have raised with regards to this exemption and reads as follows:

Dear FOI Requests

*Above I asked for info in relation to Home Office litigation expenditure on immigration and asylum (which they stated as £131.27m for the years 2011-14 here:
<https://www.whatdotheyknow.com/request/220174/response/625065/attach/3/33710%20Response.pdf>*

However, whilst attempting to reconcile figures, I found there was a clear discrepancy and highlighted this to the Home Office who excuse their not being able to provide the breakdown of £131.27 to between legal expenditure (which was my original request) for immigration and asylum (with or without human rights), commercial disputes and other functions. It is inconceivable how a department allocated millions of taxpayers money does not have an accessible record, or even one which cannot be obtained with 24 working hours of where our money is being spent!

This response from the Home Office is not in the public interest as it does not allow us to see where our money is being spent. I am therefore requesting an internal review on the grounds that Home Office is claiming it would take too many man hours to provide figures which should be easily accessible, and as a result are not allowing us to reconcile their own figures on spending of our money

(<https://www.whatdotheyknow.com/request/257530/response/637939/attach/3/BritCits%20Follow%20Up.pdf>)

Yours sincerely,

BritCits

As you are aware, the cost limit under section 12 of the Act stipulates a ceiling of £600 being the maximum expenditure that is acceptable for the identification and retrieval of information required to answer a FOI request. This figure of £600 equates to work being carried out at a rate of £25 per hour, totalling 24 hours work per request.

Having consulted with the relevant business unit within the department I am satisfied that the cost limit under section 12 of the Act would have been applicable in this case and *should* have been cited in the original response.

I have reached this determination following additional clarification being provided to me, explaining that because of the way that data was recorded in the past (between 2010-11), the only way to identify and extract the information you have requested would be to manually go through all the cases to which we made payment and establish whether or not they should be included in our analysis.

There are in excess of 16,000 cases from 2010-11 to be reviewed. We estimate that it would take on average between 15 and 20 minutes to review each case and extract the relevant data. This equates to between 4,000 – 5,000 hours, which would clearly exceed the cost threshold as laid down in section 12 of the Act.

In addition, it is worth bearing in mind that accounting systems used by the Home Office are designed, tailored, and intended for, the needs of Home Office staff only, and as such, they may not allow the department to respond to individuals' requests for information within 24 hours.

Public authorities are entitled to rely on section 12 if it is considered that *any* part of a request exceeds the cost limit, and in this case, as identifying/extracting the information for the period 2010-11 would have exceeded the cost limit: this *should* have been the full extent of the response which was provided to you.

The department tried to be helpful by providing as much information as it could within the cost limit, when in fact, under the terms of the Act, it was not legally obliged to do so.

In conclusion, I am satisfied in all the circumstances that the original response should have cited section 12(1) towards the information that you requested; this has now been rectified and a satisfactory explanation has now been provided: this now completes the internal review.

Yours sincerely

R Taylor
Information Rights Team

E-mail info.access@homeoffice.gsi.gov.uk

Annex - Further complaint procedure

This completes the internal review process by the Home Office. If you remain dissatisfied with the response to your FOI request, you have the right of complaint to the Information Commissioner at the following address:

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF