



Department for Culture, Media & Sport

Freedom of Information Team
Department for Culture, Media & Sport
1st Floor
100 Parliament Street
London SW1A 2BQ
E: foi@dcms.gov.uk

Tel: 020 7211 6111

www.gov.uk/dcms

FOI2023/06117

19 June 2023

M Hands

request-976043-fe7b0999@whatdotheyknow.com

Dear M Hands,

Thank you for your correspondence of 29 May, in which you made the following request for information:

To keep it within cost

Quote

In this instance, we have interpreted your request to all correspondence between DCMS and the Information Commissioner's Office (ICO) regarding "transparency in Public Service organisations requests that have gone to ICO after requester applied to DCMS but was not satisfied with how the request was answered". We have interpreted this as relating to Freedom of Information requests (and their internal reviews), and Subject Access requests.

We regret that we are unable to respond to your request because it exceeds the cost limit set out by the Act. Section 12 of the Act makes provision for public authorities to refuse requests for information where the cost of dealing with them would exceed the appropriate limit, which for central government is set at £600. This represents the estimated cost of one person spending 3.5 working days in determining whether the department holds the information, locating, retrieving and extracting the information. We consider your request would be over the statutory limit because of the time and resources required to obtain the requested information. As noted in our responses with regards to Freedom of Information requests or Subject Access requests, individuals have the right to ask the ICO to investigate any aspect of their complaint. Therefore, over this period, there have been numerous occasions in which such complaints have taken place (even if they result in the ICO upholding the department's decision). In order to investigate a complaint sufficiently, the ICO will be required to engage with the relevant department (in this case DCMS), and therefore there are communications from both sides to resolve the complaint effectively. The volume of information held by the department is therefore large, and also distributed within teams and systems. There will also be communications with the ICO on unrelated matters to your request; as the ICO was previously sponsored by the former Department for Digital, Culture, Media and Sport prior to the machinery of



government changes when the Department for Science, Innovation and Technology (DSIT) became the sponsor department. This information will need to be sifted to identify if any of this information could be considered in-scope of your request. Additionally, the work required to support this request is then multiplied as your request covers a timeframe of 3 years. In order that you can submit a request that does not breach the cost limit set, you may like to limit your request. We would recommend you specify particular Freedom of Information or Subject Access requests for which you wish to request correspondence. You may wish to specify exactly what information you require, for example email correspondence only. You may wish to reduce the timeframe of your request significantly.

End quote

Please consider our request requests that have gone to ICO after requester applied to DCMS but was not satisfied with how the request was answered". as relating to Freedom of Information requests (and their internal reviews), and NOT subject access requests

Please consider our requests working back from the date of request within the cost limit

Eg 2023 working back as far as you are able (based on the information received we can submit new requests)

We have dealt with your request under the Freedom of Information Act 2000 (the Act). I can confirm that the Department for Digital, Culture, Media and Sport (DCMS) does have some information within the scope of your request.

However, we regret that we are unable to respond to your request because it is considered vexatious under section 14 of the Act. ICO guidance recognises that, in cases where the cost and resources required to review and remove any exempt information are likely to be so great as to place an organisation under a grossly oppressive burden, the exemption at Section 14 (vexatious requests) may be engaged.

This exemption applies because to provide the information you have requested would impose an oppressive burden on the organisation and its staff. Firstly, we would advise that you have made 5 separate requests on this topic within the past few months. When viewed objectively and within context, it can be fairly seen as a campaign against the Department for Culture, Media and Sport (DCMS). The Act was designed to give individuals a right of access to official information with the intention of making public bodies more transparent and accountable. However, your requests have been classed as a misuse of this process as a campaign to disrupt the day-to-day function of the department's FOI team. To be specific, in this instance, the phrasing of your request acknowledges this approach and indicates that further requests will be issued to us following this response as you state "*working back as far as you are able (based on the information received we can submit new requests)*"

Secondly, even if the department was able to gather this information, the request obliges the department to sift through a substantial volume of information which falls in scope and carefully consider any redactions or exemptions that may apply. The request will naturally contain sensitive information as a dialogue is required between the department and the ICO to manage such complaints, and we would therefore be required to review each and every document that falls within scope, reviewing each on a line by line basis, to consider any exemptions that may apply. It has become clear this is overly burdensome, especially when considering the above that another request for a further timeframe would be anticipated.

In addition, guidance issued by the Information Commissioner's Office (ICO) recognises that, in cases where the request appears to be frivolous in nature, or appears to be applying a scattergun approach, the exemption at Section 14 (vexatious requests) may be engaged. This exemption applies to *"ICO after requester applied to DCMS but was not satisfied with how the request was answered"* because we believe this request applies a completely random approach, which lacks any clear focus and seems to have been solely designed for the purpose of 'fishing' for information without any idea of what might be revealed. This is because every individual is entitled to appeal to the Information Commissioner regarding any aspect of their complaint, and could do so for a variety of reasons. Requests such as these represent an improper use of the Act.

Whilst your request is vexatious at present, you should consider whether a similarly worded singular request to the department, is likely to engage the cost limit under section 12 of the Act. For more information on the Act and the exemptions please consult the Information Commissioner's Office's ICO website:

<https://ico.org.uk/your-data-matters/official-information/>.

In order to make a request that is not considered vexatious, we would recommend you submit one request with a narrow scope. We would recommend that your request refines the request to particular FOI complaints (noting that the ICO publishes information regarding their investigations through Decision Notices, found on their website). For example, you may wish to specify particular documents you are interested in; and specify a short timeframe for your request.

Additionally, we would like to reiterate (as noted in previous responses) that the structure of your correspondence has made it difficult for the department to fully comprehend your request (as queries and comments are interspersed with numerous quotations with no sources provided). We would recommend making your correspondence concise and clear for future requests please; and consider the ICO's [guidance on making effective requests](#).

Yours sincerely,

Freedom of Information Team
Department for Culture, Media and Sport

Complaints and comments

As is customary in our replies, I should explain that if you are dissatisfied with any aspect of our response to your request for information, and/or wish to appeal against information being withheld from you, please send full details within two calendar months of the date of this response to: foi@dcms.gov.uk. You have the right to ask the Information Commissioner's Office (ICO) to investigate any aspect of your complaint. Please note that the ICO is likely to expect internal complaints procedures to have been exhausted before beginning an investigation.