

David Gale

Our ref: **FOI1556**

request-689212-  
b76b66c3@whatdotheyknow.com

Date: 24 September 2020

Dear David Gale

**Subject: Freedom of Information Request Response**

Thank you for your email dated 03 September 2020 in which you made the following request:

- “1. Please provide sight of all communications involving the EHRC and third parties (to include the DfE, SASC, Office for Students, and Universities UK) on the issue of disability discrimination by UK universities against students.
2. Please confirm that the EHRC is aware that there is currently no formal governance process for ensuring that dyslexia tests carried out by psychologists on behalf of universities comply with SASC / DfE guidelines.
3. Please confirm that the EHRC is aware that the university complaints adjudicator (OIA) has no remit to rule on disability discrimination cases even in circumstances where the OIA rules that a university has abused its own complaints process during a disability discrimination complaint.”

---

**T:** 0161 829 8100

**E:** [foi@equalityhumanrights.com](mailto:foi@equalityhumanrights.com)

Arndale House, The Arndale Centre  
Manchester, M4 3AQ

**[equalityhumanrights.com](http://equalityhumanrights.com)**

## Response

We have considered your requests and determined that the cost of complying would exceed the appropriate limit set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

Section 12 (1) of the Freedom of Information Act states:

‘Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.’

As noted above, the appropriate limit is currently set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (‘the Regulations’). The Regulations set a limit of £450 for public authorities such as the Commission.

Regulation 4(3) of the Fees Regulations states that a public authority can only take into account the costs it reasonably expects to incur in carrying out the following permitted activities in complying with the request:

- determining whether the information is held;
- locating the information, or a document containing it;
- retrieving the information, or a document containing it; and
- extracting the information from a document containing it.

---

**T:** 0161 829 8100

**E:** [foi@equalityhumanrights.com](mailto:foi@equalityhumanrights.com)

Arndale House, The Arndale Centre  
Manchester, M4 3AQ

**[equalityhumanrights.com](http://equalityhumanrights.com)**

When determining the cost of compliance all public authorities should calculate the time spent on the permitted activities at the flat rate of £25 per person, per hour.

ICO guidance also advises that a public authority is not obliged to search for, or compile some of the requested information before refusing a request that it estimates will exceed the appropriate limit. Instead, it can rely on having cogent arguments and / or evidence in support of the reasonableness of its estimate.

Following consideration of your request we have determined that the Commission will hold information relevant to your request, but the cost of complying with your request would exceed the £450 / 18 hour limit.

Your email dated 03 September 2020 consists of a series of requests with an overarching theme / common thread running throughout. As such we have aggregated the costs of complying with these requests as permitted by the Fees Regulations.

We have determined that it will take well in excess of 18 hours to locate, retrieve and extract the requested information. This is due to the extensive nature of the searches required.

## **Section 12 search strategy**

We have outlined below, how we have calculated this estimate:

---

**T:** 0161 829 8100

**E:** [foi@equalityhumanrights.com](mailto:foi@equalityhumanrights.com)

Arndale House, The Arndale Centre  
Manchester, M4 3AQ

[equalityhumanrights.com](http://equalityhumanrights.com)

In order to provide the communication requested for part 1 of your request we would need to consider electronic and manual communication methods. We undertook an initial back end search of our email system to identify relevant communications and identified 29612 emails that could be relevant to your request. We would need to manually analyse each of these emails to determine whether the email is relevant to your request. In addition we would be required to search manual correspondence records held.

We have estimated that it would require on average 1 minute to review each email and determine if it contained relevant information. Reviewing 29612 emails taking 1 minute each would amount to approximately 494 hours of work. This takes us over the limit of 18 hours of work to locate, retrieve and extract the requested information.

As part 1 of your request exceeds the 18 hour limit we have not additionally considered time taken to respond to other parts of your request.

## **Advice and Assistance**

You may wish to amend / refine your request to bring it within the appropriate limit. To assist you with this we have provided comments below:

- Limiting the request to solely correspondence between the Commission and DfE, SASC, Office for Students, and UK universities is unlikely to bring your request within the appropriate limit.

---

**T:** 0161 829 8100

**E:** [foi@equalityhumanrights.com](mailto:foi@equalityhumanrights.com)

Arndale House, The Arndale Centre  
Manchester, M4 3AQ

**[equalityhumanrights.com](http://equalityhumanrights.com)**

- It may be possible to bring your request within the limit by:
  - Limiting your request to one organisation with whom you would like to see email correspondence on this topic
  - Limiting your request to a specific time period, for example, emails from within the last 3 months
  - Focusing your request on parts 2 and 3 only

We hope that the above information will prove helpful to you should you choose to refine your request.

Please also note that, even if a new request were to fall below the £450 limit, the information that you request might be withheld under the terms of a number of substantive exemptions contained in Part II of the Freedom of Information Act 2000. These exemptions can also make it necessary for us to extend the period for responding beyond the 20 working days target if they involve having to consider the public interest balancing test.

If you require any clarification please do not hesitate to contact us using the details below.

If you are unhappy with our response and wish to request an internal review of our decision please write to the Information Governance Team within 40 days of receiving this letter setting out your reasons at:

---

**T:** 0161 829 8100

**E:** [foi@equalityhumanrights.com](mailto:foi@equalityhumanrights.com)

Arndale House, The Arndale Centre  
Manchester, M4 3AQ

**[equalityhumanrights.com](http://equalityhumanrights.com)**

Email: [foi@equalityhumanrights.com](mailto:foi@equalityhumanrights.com)

or

Equality and Human Rights Commission  
2nd Floor Arndale House  
The Arndale Centre  
Manchester  
M4 3AQ

During the independent review the handling of your information request will be reassessed by Commission staff afresh. If following the review you are not content with the outcome you may apply directly to the Information

Commissioner's Office (ICO) at:

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

---

**T:** 0161 829 8100

**E:** [foi@equalityhumanrights.com](mailto:foi@equalityhumanrights.com)

Arndale House, The Arndale Centre  
Manchester, M4 3AQ

[equalityhumanrights.com](http://equalityhumanrights.com)

Generally the ICO cannot provide a decision until you have exhausted the review process within the Equality and Human Rights Commission.

If the Commission can be of any further assistance please contact us using the details provided below.

Yours sincerely

**EHRC Information Governance Team**

---

**T:** 0161 829 8100

**E:** [foi@equalityhumanrights.com](mailto:foi@equalityhumanrights.com)

Arndale House, The Arndale Centre  
Manchester, M4 3AQ

**[equalityhumanrights.com](http://equalityhumanrights.com)**