

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 October 2023

Public Authority: Criminal Injuries Compensation Authority
Address: Alexander Bain House
Atlantic Quay
15 York Street
Glasgow
G2 8JQ

Decision (including any steps ordered)

1. The complainant has requested information from the Criminal Injuries Compensation Authority (CICA) about applications for particular compensation award categories. CICA is an executive agency of the Ministry of Justice (MoJ).
2. The Commissioner's decision is that, on the balance of probabilities, CICA does not hold any further information within the scope of the request.
3. The Commissioner does not require CICA to take any further steps.

Request and response

4. On 27 March 2023, the complainant wrote to CICA and requested information in the following terms:

"I would kindly request to know how many applications for a mental injury (A1, A4, A7) were made and how many were awarded and the award amounts. Finally please can you also provide the same information for applications, number of awards and amounts for Non-consensual penile penetration (B9)"

5. CICA responded on 25 April 2023. It stated that it holds some of the requested information, and went on to disclose a table which showed the total number of awards made for each category, along with the total amount of compensation awarded for each category.
6. The complainant requested an internal review on 15 May 2023, in which they outlined that CICA had not provided information on the number of applications made, and the number of applications declined, in each of the listed categories.
7. Following an internal review CICA wrote to the complainant on 8 June 2023. It maintained that it does not hold any further information within the scope of the request.

Reasons for decision

Section 1 – general right of access

8. Section 1(1) of FOIA provides that any person making a request for information to a public authority is entitled –
 - a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - b) if that is the case, to have that information communicated to him.
9. FOIA provides a right of access to recorded information which is held by a public authority at the time when it receives the request; this does not extend to the right to ask questions, or for explanations, clarification of information or to debate the contents of information, unless the answer to those questions, or requests for explanation or clarification is already held by the public authority in recorded form. Essentially, public authorities are not obliged to 'create' new recorded information in order to comply with a request.
10. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
11. The complainant argued that they feel the requested information should be recorded and should be made public for full transparency as the compensation award scheme serves the general public.

12. CICA explained that it does not ask applicants to select the tariff banding that they consider they fall into at the time of making an application. Each claim is decided on its own merit and is based on the evidence supplied to support the application. The award categories are applied to the claim by CICA after assessing the evidence supplied to support the claim, in order to determine the injury and what the most appropriate award banding would be. Therefore, CICA does not hold information about applications made for particular award categories.
13. The Commissioner does not have the authority to dictate what information a public authority should hold, or how it should hold it. His remit covers consideration of information that is held, as a matter of fact, by the public authority, and whether or not that information should be disclosed in response to a request under FOIA.
14. The Commissioner is satisfied that CICA has clearly explained why it does not hold information about applications made for particular award categories. The Commissioner concludes that, on the balance of probabilities, CICA does not hold any further information within the scope of the request. CICA has met its obligations at section 1 of FOIA, and the Commissioner does not require it to take any further steps on this matter.

Right of appeal

15. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

16. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Michael Lea
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF