

FOI Reference: 6178492

Date: 8 June 2022

## Your Freedom of Information Request

Thank you for your request, detailed below, which we received on 10 May 2022.

"I am interested to know more about the EHRC's 'legal support project for transport', launched in September 2019. Please provide the total number of cases and amount of funding spent on legal assistance for transport cases under that project.

Please also provide more information on 1) when and 2) why the transport project was withdrawn, including any recommendations to that effect produced within the EHRC including, for example, an analysis of the transport project conducted to assess 1) what it had achieved and/or 2) whether it should continue. Alternatively, if it had always been the case that the transport project was scheduled to end at a certain date, please make clear what date that was.

If time permits, I would also like to request more information on the disability discrimination legal support project, which began in 2017. According to your website, you have spent £189,000 on legal assistance across 94 cases under this project. Please could you confirm whether the 'legal support project for transport' cases are included as a category within this figure? Please send a full breakdown of the 94 cases under the disability discrimination project according to category, for example, transport/housing/education. This data would at minimum be presented as numbers of cases and funding amounts per category, but should also include a case name, case reference, topic or summary for each case if it is possible to give out that much information, and if there is enough time remaining."

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This request is being handled under the Freedom of Information Act 2000.

## Response

We have responded to each of your requests in turn below.

1. I am interested to know more about the EHRC's 'legal support project for transport', launched in September 2019. Please provide the total number of cases and amount of funding spent on legal assistance for transport cases under that project.

Total number of matters: 26

Total spend for the project: £48,872.58.

2. Please also provide more information on 1) when and 2) why the transport project was withdrawn, including any recommendations to that effect produced within the EHRC including, for example, an analysis of the transport project conducted to assess 1) what it had achieved and/or 2) whether it should continue. Alternatively, if it had always been the case that the transport project was scheduled to end at a certain date, please make clear what date that was.

It was anticipated that the project would be open for a year, the exact end date was dependent on the number of matters referred, the nature of those and so the budget spend. When the pandemic hit, there was a refocusing of the Commission's priorities and reprioritisation of the Business Plan, work on the 'Transport Aim' was reduced. As a result a decision was made to only provide support to matters which had COVID related transport aspects to them. By 6 May 2020, the project stopped making any grants of further funding on existing matters. The project remained open to new matters but no new applications were made to the project after this date. Although there remained some spend for the project, a decision was made that the project should be wound down early in line with the Commission's strategic response to the pandemic. Therefore the project was closed to new applications on 6 July 2020.

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3. I would also like to request more information on the disability discrimination legal support project, which began in 2017. According to your website, you have spent £189,000 on legal assistance across 94 cases under this project. Please could you confirm whether the 'legal support project for transport' cases are included as a category within this figure?

No, the cases reported under the access to justice project focusing on disability discrimination did not include the cases supported under the transport project, which was conducted separately.

4. Please send a full breakdown of the 94 cases under the disability discrimination project according to category, for example, transport/housing/education. This data would at minimum be presented as numbers of cases and funding amounts per category, but should also include a case name, case reference, topic or summary for each case.

We can confirm that Equality and Human Rights Commission holds the information you requested. Please see Appendix A which contains the information we are able to disclose to you. We should note:

1. The Issue details in row 3 appear to be incomplete but this is a direct extraction from our records.
2. The total spend (£181,704.72) and number of cases (95) differs slightly from the information on our website. This is likely to be due to account balancing after the details were reported; the difference in the number of cases appears to be due to a simple miscount. We will look into this further and make amendments to our website as necessary.

We are withholding some information as we consider that the following exemptions apply:

#### **Section 40(2): Personal information**

Names, initials and identifiers such as reference numbers amount to personal data.

Section 40(2) of the Freedom of Information Act (as modified by Schedule 19 Part 1 Paragraphs 55-64 of the DPA2018) provides that any information to which a request for

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information relates is exempt information if it constitutes personal data relating to an individual that is not the requestor, and disclosure would:

- breach any of the data protection principles,
- contravene the right to object to processing, or
- be in conflict with the exemptions applicable to subject access requests

It is considered that disclosure of some of the personal data described above, to the world at large, could breach the first data protection principle. The first principle provides that personal data shall be processed lawfully, fairly and transparently.

### **Lawful, fair and transparent**

In considering whether it would be lawful, fair and transparent to disclose information which can identify individuals, we have carried out a balancing test, taking into account the following factors:

#### **Factors that support disclosure**

- The overriding FOIA principle of transparency and accountability is widely understood and accepted within public authorities.
- We have published the name of one individual as a case example on our website.

#### **Factors that support withholding**

- We have no reason to believe that the data, not already published on our website, has been made manifestly public by the data subject.
- We consider that individuals would have a reasonable expectation that their personal data would not be disclosed to the world at large without their consent.

We have considered whether it is necessary to disclose the requested information into the public domain in order to meet the legitimate interest in understanding more about the Commission's work in this area. We have determined that it would not be fair, lawful and transparent to disclose names or other identifiers of third parties unless this is already in the public domain. Where we have determined that disclosure would not be fair, lawful and transparent, we are engaging section 40(2). Section 40(2) is an absolute

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exemption and there is therefore no requirement to conduct a public interest test. Accordingly with the exception of the information already published on our website, this information is withheld.

### **Section 31: Law enforcement**

The information requested is exempt from disclosure under Section 31(1) of the Freedom of Information Act (FOIA).

The information that we are withholding are the details of the parties involved and case reference number which can be used as an identifier (“Withheld Information”).

Section 31 (1) (g) provides an exemption from the right to know, if disclosure of the information would or would be likely to prejudice the exercise by any public authority of its functions for any of the purposes specified in subsection (2).

The Equality and Human Rights Commission is Great Britain’s national equality body and is a statutory non-departmental public body established by the Equality Act 2006. We safeguard and enforce laws that protect people’s rights to fairness, dignity and respect. Our functions as summarised above, are set out in Section 8 of the Equality Act 2006.

We consider that with respect to the Withheld Information, the disclosure would be likely to prejudice our ability to carry out the following functions as set out in subsection 2:

- Section 31(2)(a) The purpose of ascertaining whether any person has failed to comply with the law;
- Section 31(2)(c) The purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise.

Sections 31(2)(a) and 31(2)(c) are engaged because of our responsibility to make formal decisions as a regulator.

For us to function as an effective regulator and be able to ascertain information for the purposes specified above, it is essential that we are able to maintain an appropriate level of confidentiality when conducting our regulatory and legal advice work.

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Disclosure of the Withheld Information, to the world at large, would be likely to discourage others from sharing information with us or contacting us for help. This would negatively impact our ability to request and / or receive necessary information in the future. We consider that the disclosure of the Withheld Information which was received through the use of one of our Enforcement powers set out in the Equality Act 2006 (Section 28 Legal assistance) would be likely to prejudice our ability to properly perform the functions listed above.

### **The Public Interest Test**

As section 31 is a qualified exemption we have considered whether the public interest lies in maintaining the exemption or disclosing the information. We have considered and took account of the starting presumption under the FOI that disclosure is in the public interest and considered the following:

#### **Factors in favour of disclosure**

- Presumption under the Freedom of Information Act of disclosure. There is a general public interest in promoting transparency, accountability, public understanding and involvement in the democratic process.
- Assist public understanding of our regulatory work in a matter which is of public interest. There is a legitimate public interest in the subject the information relates to.
- Public interest in disclosing the information in question to help the public understand more on the subject.

#### **Factors in favour of withholding**

- As a regulator we must maintain appropriate level of confidentiality to be able to carry out our role and to protect our ability to enter into dialogue in a confidential manner with bodies where we have concerns about compliance with the equality enactments and / or human rights. This is to allow those bodies to commit to engaging with us and changing their policies and procedures, where necessary.
- The disclosure of the Withheld Information could adversely affect the full and frank provision of information by persons or organisations whom are subject to our preliminary enquiries. This would interfere with our effectiveness in considering using our powers under the Equality Act.
- Whilst there is a public interest in accountability, we believe that the information we are able to disclose meets the specific public interest in this matter.

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On balance, we have concluded that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. This is because we consider there is a stronger public interest in us being able to exercise our statutory functions under the Equality Act 2006 effectively. It is essential that we are able to effectively ascertain compliance with the equality laws and achieve the best outcome to promote good practice and compliance with the law.

Accordingly the details of the parties involved and case reference numbers which can be used to identify them are withheld. This is with the exception of one case which appears on our website as an example of an individual who has benefitted from the provision of this funding.

### **Internal Review**

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

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

or

Equality and Human Rights Commission  
2nd Floor Arndale House  
The Arndale Centre  
Manchester  
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During the independent review the handling of your 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

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

We will now close your request as of this date.

Yours sincerely

Senior Associate  
Information Governance team

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