

work-related death advice service

Providing free, independent and confidential advice on criminal justice and inquest issues

Lord Falconer
Department for Constitutional Affairs,
Selborne House,
54 Victoria Street,
London
SW1E 6QW

21 November 2006

Dear Lord Falconer,

RE: Proposed amendments to fee schedules of Freedom of Information Act 2000

We are writing to express our concern at the proposals by the Government to amend the fee schedules of the Freedom of Information Act 2000.

The Centre is a voluntary organisation funded by the Joseph Rowntree Charitable Trust. The Centre runs a 'Work-Related Death Advice Service' which provides free, independent and confidential advice to families bereaved from a work-related death on investigation and prosecution issues arising out of the death. Please find enclosed a copy of the Centre's advice leaflet for your information.

Should you wish to find out any more information about our organisation and its advice service then do not hesitate in contacting me.

The proposed changes

We understand that the Government proposes the following:

- (a) to allow the time spent considering FOI requests to count towards calculating the cost limit.
- (b) to allow authorities to aggregate FOI requests from the same person or organisation and refuse them all if the total exceeds the cost limit.

We are extremely concerned about these proposals for a number of reasons.

First, we use the FOIA as a core part of both our casework and our policy work. In casework, we use it to request from investigatory agencies copies of relevant papers, particularly after the cases are done, so that our clients can have the fullest possible picture of how their case was investigated. We also occasionally use it to access information on previous investigations/prosecutions/notices served on companies currently under investigation, if this is what our clients wish. This facility has been of

real benefit to our clients, who are bereaved relatives of those killed at work. We can put in multiple applications at a time if we have multiple clients who need this information. Our concern is that the proposals to effectively limit the number of applications we can put in would lead to us either having to discriminate between clients (prioritising some over others, aware that there is a limit we might reach which would result in an effective bar for other clients) which of course we would never do, or risk having an application for an equally distraught or needy family refused simply because we had already sought similar information for others. This would be a profound injustice and utterly unacceptable.

When we use the Act to support our policy work, this can take many forms. For example, we might ask for access to investigation/prosecution bodies' policies on dealing with bereaved people, with a view to suggesting improvements, or we might request data from the Health and Safety Executive on workers killed in work-related road traffic accidents with a view to analysing the Executive's work in this area. Because we specialise in worker and public safety it is inevitable that sometimes we will make multiple requests of a particular body in a particular period – such as the HSE, the Maritime and Coastguard Agency, the Police or the Crown Prosecution Service. All of these requests are core to our work and to have to cut back on them in order to remove the risk of a vital request being refused under this new regime will have a clear chilling effect on our work to protect safety.

Second, it is our experience that some bodies can sometimes filter all requests, wrongly, through FOIA – meaning that any potential requests would add up under the fees regulation much quicker than is necessary or proper and effectively putting an incorrect bar on further disclosures that should be covered by the FOIA. For example, we had a dispute with the HSE in July 2005 when one branch started treating every request for any information from a bereaved family as a FOIA request rather than something that could be dealt with, as it always otherwise would be, by an investigating inspector. This resulted in one case in a bereaved daughter being told by an FOI officer that she could have no information at all about her father's death. We challenged this situation and got an apology and a change in policy from HSE, but we are concerned that similar situations arise and then mean an effective ban on any disclosure at all. This in our view would contribute to a position on disclosure of information very much worse to that in existence before the Act came into operation.

In summary, these proposed changes would have the effect of preventing some bereaved families from being able to access information about the investigation/prosecution into the death of their relative, and would lead to an unacceptable and undemocratic removal of their rights to access information to assist in our work of protecting worker and public safety. The proposals as currently constituted would quite possibly make disclosure less possible than before the Act was implemented – worse even than nullifying the legislation.

Please reconsider your proposals. We will look forward to hearing from you.

Yours sincerely,

Bethan Rigby
Caseworker/Policy Officer

Encs: WRDAS leaflet