



Mr Ian Kermodé
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Our ref: 3242789

7 August 2023

Dear Mr Kermodé

We write further to your request which was received on 11 July 2023 and which states:

"Please can you confirm the following:

- 1. How many Non-Disclosure Agreements (NDAs) or any form of confidentiality agreements between IOM Government bodies (including departments and public authorities) and other parties (including persons, groups or companies) have been contractually entered into over the last 5 years?*
- 2. What is the number of such individual NDAs for each of the years 2018, 2019, 2020, 2021 and 2022?*
- 3. What is the overall monetary value of financial settlements made by IOM Government bodies covered by such NDAs for each of the years 2018, 2019, 2020, 2021 and 2022 (the annual totals)?*
- 4. Does the IOM Attorney General's chambers advise Manx Government bodies on whether each NDA is appropriate?*
- 5. Is the IOM Chief Minister informed of the nature and content of settlements covered by NDAs?*
- 6. Why are NDAs considered necessary by IOM Government bodies?*
- 7. What is the criteria that is applied as to whether a NDA is necessary and appropriate in any particular case?*

Thank you."

Our response to your request is as follows: In relation to your points 1, 2 and 3, while our aim is to provide information whenever possible, in this instance the public authority does not hold or cannot, after taking reasonable steps to do so, find the information that you have requested as per Section 11(3)(a) of the Freedom of Information Act 2015 ("FOIA").

Please be advised that Attorney General's Chambers ("AGC") provide legal advice to Isle of Man Government Departments, should they request it, and we do not keep a record of whether any agreements prepared on their behalf reached conclusion. Records of agreements made may be provided to AGC once they are concluded, but they are held solely for the Isle of Man Government Department providing it to us as legal advisors. The information you seek is therefore held by departments, and not AGC.

Section 8(2)(a) of the FOIA states the following;

*'In this Act, information is **"held"** by a public authority if it is held —*

(a) by the public authority, otherwise than on behalf of another person...'

I would advise that in order to obtain such information your request is better directed toward individual Departments, as they are more likely to hold a final version of any completed agreements, and the total numbers in respect of such. AGC considers that points 4-7 of your request constitute questions and not requests for recorded information, which the FOIA is there to enable you to request. Thereby these points of your request under Section 9(5)(a)(iii) of the FOIA do not provide *'an adequate description of the information requested'*, and a practical refusal reason under Section 11(3)(c) applies.

In terms of whether AGC itself holds such information we do endeavour to provide information whenever possible. However, under Section 19 of the Act, a public authority may refuse a request where to either confirm or deny whether it holds information would itself be absolutely exempt information or qualified exempt information under the Act. In this instance, if the information you requested did exist or was held by us, an exemption under Section 25 of the Act would apply to that information. This exemption would apply because it would most likely be in connection to individuals and could reveal information, which if combined with other information, reveal their identity and thereby their personal data.

By way of advice and assistance we recommend that points 4-7 of your request are re-submitted in a manner which requests information. The Isle of Man Government website; <https://www.gov.im/about-the-government/freedom-of-information/how-to-make-a-freedom-of-information-request/>, details advice on how to make an FOI request, in particular 'Writing your request'.

The purpose of the FOIA is to give residents of the Isle of Man a legally enforceable right of access to information held by public authorities in accordance with the principles that information should be available to the public to promote the public interest and that exceptions to the right of access are necessary to maintain a balance with the rights of privacy, effective government and value for the taxpayer.

Your right to request a review

Please quote the reference number 3242789 in any future communications.

If you are unhappy with this response to your freedom of information request, you may ask us to carry out an internal review of the response, by completing a complaint form and submitting it electronically or by delivery/post.

An electronic version of our complaint form can be found by going to our website at <https://services.gov.im/freedom-of-information/Review> . If you would like a paper version of our complaint form to be sent to you by post, please contact me and I will be happy to arrange for this. Your review request should explain why you are dissatisfied with this response, and should be made as soon as practicable. We will respond as soon as the review has been concluded.

If you are not satisfied with the result of the review, you then have the right to appeal to the Information Commissioner for a decision on;

1. Whether we have responded to your request for information in accordance with Part 2 of the Freedom of Information Act 2015; or
2. Whether we are justified in refusing to give you the information requested.

In response to an application for review, the Information Commissioner may, at any time, attempt to resolve a matter by negotiation, conciliation, mediation or another form of alternative dispute resolution and will have regard to any outcome of this in making any subsequent decision.

More detailed information on your right to a review can be found on the Information Commissioner's website at www.inforights.im.

Should you have any queries concerning this letter, please do not hesitate to contact me.

Further information about freedom of information requests can be found at www.gov.im/foi.

I will now close your request as of this date.

Yours sincerely

