

Working level agreement between the Department for Culture, Media and Sport and the Information Commissioner's Office on the approach to intervention in, and consultation on, Court of Justice of the European Union cases

Background/Context

This document sets out an agreed understanding between the Department for Culture, Media and Sport (DCMS) and the Information Commissioner's Office (ICO) on the approach both sides will aim to take in flagging up interest and possible interventions in data protection Court of Justice of the European Union (CJEU) cases.

Both parties should keep each other informed of developments which should, wherever possible, underpin our joint approach to litigation. In this context, DCMS recognises that the ICO, as the UK's data supervisory authority, can bring valuable expert advice and opinion to the decision making process in relation to CJEU and other data protection related cases and DCMS will look to draw on this advice wherever possible.

Both sides also recognise, however, that the decision on whether to intervene in a case is ultimately a matter for Ministers and that any intervention by the UK Government would need to be led by advice from Government lawyers.

Principles for future engagement

In this context, DCMS and the ICO agree the following principles:

- DCMS will ask the EU litigation team in the Cabinet Office to share the CJEU case list with the ICO in parallel with DCMS so they are aware of information rights related cases.
- There will be a 'litigation' standing item on the agenda of the DCMS/ICO quarterly Liaison Meetings.
- If the UK Government intends to intervene in a CJEU case, DCMS will inform the ICO wherever possible before it does so and as a minimum will share with the ICO the Government's broad concerns, although it might not always be possible to share the

formal observations. The ICO will inform DCMS at the earliest opportunity of its views on the case.

- A similar approach to the above should be taken to non-CJEU cases but it should be noted that the notification process for upcoming ECHR and domestic cases is not as dependable as for CJEU ones. It will therefore be very helpful if both parties can flag upcoming cases as and when they become aware of them.