

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 October 2021

Public Authority: Information Commissioner's Office (ICO)

Address: Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Note: This decision notice concerns a complaint made against the Information Commissioner ("the Commissioner"). The Commissioner is both the regulator of the Freedom of Information Act 2000 (FOIA) and a public authority subject to the FOIA. She is therefore under a duty as regulator to make a formal determination of a complaint made against her as a public authority. It should be noted, however, that the complainant has a right of appeal against the Commissioner's decision, details of which are given at the end of this notice. In this notice the term "ICO" is used to denote the ICO dealing with the request and the term "Commissioner" denotes the ICO dealing with the complaint.

Decision (including any steps ordered)

1. The complainant requested information from the ICO about correspondence it has had with the Centre for Information Policy Leadership (CIPL) since 1 January 2021.
2. The Commissioner's decision is that the ICO breached section 10(1) of the FOIA by failing to provide a valid response to the request within the statutory time frame of 20 working days.
3. As a response has been issued, the Commissioner does not require the ICO to take any further steps.

Request and response

4. On 4 May 2021 the complainant wrote to the ICO and requested information in the following terms:

"Please can you disclose the following, with the requests in bold and some extra context and explanations in italics. If it looks likely that responding to all or more than one of these requests would breach the s12 cost/time limit, please only answer (1).

(1) All email correspondence that the ICO and/or its staff has had with the Center for Information Policy Leadership (aka CIPL) since 1 January 2021

I understand that the emails received by the ICO would probably have been with [redacted] email addresses, as the organisation is housed within and may formally be a part of the law firm [redacted].

To be clear, I am not asking to see any correspondence the ICO has exchanged with [redacted] more generally (not least as it is possible that the firm may have represented targets of ICO enforcement, which would not be disclosable). I seek only correspondence which was between the ICO and individuals acting in their capacity as CIPL staff, advisers or consultants (or any other CIPL role – that list is only for illustrative purposes and is not exhaustive).

If it can help narrow things down at an early stage, it may be easiest for you to gather all correspondence with [redacted] email addresses, and exclude all emails and email chains that do not contain the term 'CIPL' or 'Center for Information Policy Leadership'. I imagine that this would quickly find the correspondence I'm requesting.

(2) Any internal ICO correspondence that refers to 'CIPL' or 'Center for Information Policy Leadership' since 1 January 2021

Again, I am not looking for any correspondence that relates to enforcement proceedings.

(3) Records of any meetings (virtual or physical) held between ICO and CIPL staff since 1 January 2021

I am looking only for records that meetings took place, and am not at this stage asking for disclosure of agendas and/or minutes".

5. The ICO responded to the request for information on 26 May 2021 and recommended that the complainant clarified and narrowed the scope of his request.
6. On 1 June 2021 the complainant submitted a narrowed request to the ICO in the following terms;

"All email correspondence between the ICO Executive Team, Regulatory Supervision Service and Regulatory Futures and Innovation (ie Excluding Corporate Strategy and Planning Service) and the Center for Information Policy Leadership (aka CIPL) since 1 January 2021, excluding non-targeted correspondence such as newsletters."

7. The ICO responded to the revised request on 24 September 2021.

Scope of the case

8. The complainant contacted the Commissioner on 14 September 2021 to complain about the ICO's failure to respond to their request within the statutory time frame of the FOIA.
9. The Commissioner has considered whether the ICO has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

10. Section 1(1) of the FOIA states 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."

11. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt"*.
12. From the evidence provided to the Commissioner in this case, it is clear that the ICO did not deal with the request for information in accordance

with the FOIA. The Commissioner finds that ICO has breached section 10(1) by failing to respond to the request within 20 working days.

Right of appeal

13. 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

14. 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.
15. 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
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF