

13 April 2015

Case Reference Number IRQ0576154

Dear Sir

Request for Information

Further to our partial response of 30 March 2015 we can now provide a full response to your request for information dated 28 February 2015. I apologise again for the delay in providing this information.

As you know we have dealt with your request in accordance with your 'right to know' under section 1(1) of the Freedom of Information Act 2000 (FOIA), which entitles you to be provided with a copy of any information 'held' by a public authority, unless an appropriate exemption applies.

Request

In your tweet you asked for "*all info relating to your PECR audit of Talk Talk, news of which was announced December 2014*".

Information Held

As I previously explained we have withheld much of the information under the exemptions at section 31(1)(g) and Section 31(2)(a) and (c).

Please find attached the information which falls within scope and we have considered can be disclosed in response to your request. This consists of emails between the ICO and TalkTalk and internal ICO correspondence and documents.

Information Withheld

You will see that our email to TalkTalk of 23 October 2013 refers to an attached copy of the PECR control library. The PECR control library was used to form the basis of our Audit toolkit. The toolkits are used by our Good Practice department to assess organisations overall compliance with the audit scope areas listed in your request.

We are not able to provide you with the information in our PECR control

library and have not provided it in response to this request. This is because we consider this information exempt under section 36 (2) (c) FOIA as disclosure would be likely to prejudice the conduct of public affairs.

The relevant parts of Section 36 state:

“(2) Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act –

...

(c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.”

We have sought the opinion of our Qualified Person and they have concluded that the disclosure of this information would be likely to prejudice the effective conduct of public affairs.

We consider that the prejudice would occur to the ability of our Good Practice department to conduct effective audits on compliance with the legislation we regulate.

The withheld information provides details about what would be asked of organisations to the extent that it would either enable them to provide ‘prepared answers’ and/or would encourage them to focus on aspects that might be counterproductive. There is also a risk of prejudice to the audit function generally because providing all of the tools to conduct an audit might result in fewer organisations agreeing to have one. It could also diminish the quality of audit and compliance overall.

Section 36 is a qualified exemption, so we must consider the balance of the public interest.

The factors in favour of maintaining the exemption are:

- The public interest in the ICO maintaining a position from which it can run an effective audit process encouraging better data protection compliance in the organisations it deals with;
- The public interest in the ICO auditors having tools to deal with circumstances or issues that may arise during an audit that are not already known to the organisation in question and which the organisation has therefore not prepared for in advance, thereby enabling a more realistic audit of the organisation’s data protection compliance to be undertaken;
- The fundamental purpose of data protection audits is to examine and assess compliance with information rights legislation within data controllers who may well process a large volume of personal

data (often, also, varying categories of sensitive personal data). To frustrate this process in any way simply cannot be in the public interest.

The factors in favour of disclosing the information are:

- Increased transparency of our audit process.

Whilst we cannot provide the information you requested, you can access other useful information about our audits online.

Guide to data protection audits:

http://ico.org.uk/for_organisations/data_protection/working_with_the_ico/~media/documents/library/Data_Protection/Detailed_specialist_guides/auditing_data_protection.pdf

Audit work programme 2014-15:

http://ico.org.uk/what_we_cover/audits_advisory_visits_and_self_assessments/~media/documents/library/Corporate/Notices/ico-audit-work-programme-2014-15.pdf

Audit executive summaries:

http://ico.org.uk/what_we_cover/audits_advisory_visits_and_self_assessments/audits

I hope this information is of assistance.

Finally, I would also mention that (with the exception of the Chief Executive Officer and the Company Secretary) the contact details of individuals we corresponded with at TalkTalk have been removed to protect their identities. This personal information is exempt from disclosure to you under section 40(2) of the Freedom of Information Act 2000 as to provide it to you would contravene the Data Protection Act 1998.

Review Procedure

I hope this provides you with the information you require. However, if you are dissatisfied with this response and wish to request a review of our decision or make a complaint about how your request has been handled you should write to the Information Access Team at the address below or e-mail accessicoinformation@ico.org.uk.

Your request for internal review should be submitted to us within 40 working days of receipt by you of this response. Any such request

received after this time will only be considered at the discretion of the Commissioner.

If having exhausted the review process you are not content that your request or review has been dealt with correctly, you have a further right of appeal to this office in our capacity as the statutory complaint handler under the legislation. To make such an application, please write to our Customer Contact Team at the address given or visit our website if you wish to make a complaint under either the Freedom of Information Act or Environmental Information Regulations.

A copy of our review procedure can be accessed from our website [here](#).

Yours sincerely

Ashley Duffy
Lead Information Access Officer

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