

2 August 2023

IC-245949-V6D1

Request

You asked us:

"1. How many complaints are made against the Parliamentary and Health Service Ombudsman each year since 1 January 2018 in respect of :

(a) failing to comply with requests under the Freedom of Information Act 2000 ;

(b) failing to comply with Subject Access Requests under GDPR or similar legislation ;

2. How many are upheld by ICO ;

3. How many resulted in action being taken against the said Ombudsman stating the nature ; and

4. Please provide all relevant documentation."

We have handled your request under the Freedom of Information Act 2000 (the FOIA).

Our response

We have searched our systems using the information you have provided and can confirm that we hold some information within the scope of your request.

The ICO regularly erases data in line with our [Retention and Disposal Policy](#). This means that we do not hold data protection (DP) or Freedom of Information (FOIA) complaints dating back to 1 January 2018. We have provided the complaint data for all of the complaints about PHSO we do hold. The oldest DP complaint about the PHSO we hold dates to 5 April 2019, and the oldest FOIA complaint dates to 26 June 2019.

The ICO does not classify complaints as being 'upheld' or 'not upheld.' Instead, DP complaints are classed as 'Action Taken,' 'Information Action Taken,' 'No Further Action,' or 'Unassigned.' Complaints closed as 'Unassigned' are usually misdirected or non-data protection complaints,

FOI complaints are closed as 'Action taken,' 'Information Action Taken,' 'No Further Action,' 'Regulatory Action Taken,' or 'Unassigned.'

Please find below a chart showing the number of DP complaints received about the PHSO by year, classified by closure status.

Count of Case Reference						
Row Labels	2019/20	2020/21	2021/22	2022/23	2023/24	Grand Total
Informal action taken	1	11	16	3	2	33
Infringement	1	5	8	3	1	18
Potential infringement		6	8		1	15
No Further Action	3	7	26	22	3	61
No action		3	20	14	2	39
No infringement	3	3	6	7	1	20
Not information rights		1		1		2
Unassigned					3	3
Unassigned					3	3
Grand Total	4	18	42	25	8	97

Any information about enforcement action or monetary penalties can be found [on our website](#).

Please find below a chart showing the number of FOIA complaints received about PHSO by year, classified by closure status.

Count of Case Reference	Labels					Grand
Row Labels	2019/20	2020/21	2021/22	2022/23	2023/24	Total
Action taken	7	3				10
DN served	6	3				9
Informally resolved	1					1
Informal action taken			4			4
Informally resolved			4			4
No Further Action		6	11	7		24
Informally resolved			1	1		2
No action		4	10	4		18
Not information rights		2		2		4
Regulatory action taken		4	6	5		15
DN served		4	6	5		15
Unassigned					1	1
Unassigned					1	1
Grand Total	7	13	21	12	1	54

'DN' in this context refers to 'Decision Notice.' All Decision Notices are published [on our website](#).

The paperwork and correspondence relating to complaints cases is considered the personal data of the complainant. This means that the 'relevant documentation' for the 97 DP complaints and 54 FOIA complaints is being withheld under Section 40(2) of the FOIA.

Section 40(2) of the FOIA exempts information if it is personal data belonging to an individual other than the requester and it satisfies one of the conditions listed in the legislation.

We find that the condition at section 40(3A)(a) applies in this instance: that disclosure would breach one of the data protection principles. The principles are outlined in the General Data Protection Regulation (GDPR) with the relevant principle on this occasion being the first principle as provided by Article 5(1): that personal data shall be processed lawfully, fairly and in a transparent manner.

We do not consider that disclosing this information into the public domain is necessary or justified. There is no strong legitimate interest that would override the prejudice to the rights and freedoms of the relevant data subjects. We have therefore taken the decision that disclosing this information would be unlawful, triggering the exemption at section 40(2) of the FOIA.

We hope this information is useful to you.

This concludes our response to your request.

Next steps

You can ask us to review our response. Please let us know in writing if you want us to carry out a review. Please do so within 40 working days.

You can read a copy of our full review procedure [here](#).

If we perform a review but you are still dissatisfied, you can complain to the ICO as regulator of the FOIA. This complaint will be handled just like a complaint made to the ICO about any other public authority.

You can [raise a complaint through our website](#).

Your information

Our [Privacy notice](#) explains what we do with the personal data you provide to us, and set out your rights. Our retention schedule can be found [here](#).

Yours sincerely



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