

13 November 2023

**IC-265287-V8Y1**

**Request**

We received your request on 20 October. You asked for the following information:

*I understand that the ICO recently (?) made a decision (?) concerning the management of emails e.g., to/from Financial Conduct Authority staff and those outside the FCA since 2016. This was referred to by The Times newspaper and in other media reports earlier this month. The decision (?) has not been published on the ICO's website so far as I can see. I would be grateful if you could disclose the decision. I would be content that your publication on your website of your full decision within the required statutory timeframe would satisfy my request.*

Your request has been handled under the Freedom of Information Act 2000 (the FOIA). As you are probably aware, this legislation provides public access to recorded information held by a public authority unless an appropriate exemption applies.

**Our response**

We do hold information within the scope of your request. The 'decision' referred to in the press is the outcome of a data protection complaint brought to us by an individual about this issue, in which we determined that the practice did infringe data protection law and took informal action by informing the FCA of this decision and making certain recommendations for improving data protection practices in future. We also noted that appropriate steps had been taken by the FCA to rectify the matter by the time the ICO reached this decision.

This was not formal regulatory action and as such it is not our practice to publicise it, aside from inclusion in our [complaints and concerns data sets](#), which will occur once these are published for the relevant period.

However, we are able to disclose our final decision letter in this matter under the FOIA and have enclosed in accordingly. One redaction has been made in relation to the personal data of the complainant in this matter and this is withheld pursuant to s.40(2) FOIA.

### **FOIA section 40(2)**

You will see that some of the third-party personal data has been redacted in our response.

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.

This concludes our response.

### **FOI review procedure**

If you are dissatisfied 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 [icoaccessinformation@ico.org.uk](mailto:icoaccessinformation@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 the FOIA.

## **Your information**

Please note that our [Privacy notice](#) explains what we do with the personal data you provide to us and what your rights are.

This includes entries regarding the specific purpose and legal basis for the ICO processing information that people that have provided us with, such as an [information requester](#).

The length of time we keep information is laid out in our retention schedule, which can be found [here](#).

Yours sincerely



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Corporate Planning, Risk and Governance Directorate  
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[ico.org.uk](http://ico.org.uk) [twitter.com/iconews](https://twitter.com/iconews)

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