

By email

22 February 2023

Case Reference: IC-212626-M7R2

We are now in a position to respond to your information request.

Request

In your email you asked the following:

"...please could you disclose information held in relation to the 'revised approach' announced by John Edwards in June last year under which the ICO will 'be trialling an approach that will see a greater use of...discretion to reduce the impact of fines on the public':

<https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2022/06/open-letter-from-uk-information-commissioner-john-edwards-to-public-authorities/>

Specifically, I am interested to have:

*Information on how the decision was taken to adopt the new policy;
Details of any consultation exercise was undertaken before its adoption;
Any evidence relied upon by Mr Edwards, which led him not to be convinced that 'large fines on their own are as effective a deterrent within the public sector' ".*

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

Our response

As you are aware, the ICO published an open letter to public authorities in June 2022 where we discussed our revised approach to regulatory action. The link to this is available on our website [here](#). This revised approach was informed by a cross section of views including the Commissioner's extensive listening tour in 2022, internal analysis conducted by the ICO and external academic research.

We can confirm we hold information within scope of your request. Please find below information in response to your points.

Information on how the decision was taken to adopt the new policy.

Please find attached a document entitled 'Proposals for updating and communicating our approach to the application of financial penalties for the public sector' dated 14 March 2022. Not all of the information contained within this document is in scope of your request but has been provided in full for ease of reference.

Details of any consultation exercise was undertaken before its adoption.

Please find attached a document prepared for the ICO's Executive Team dated 10 February 2022. It includes an Annex from our Economic Analysis team (Annex 1).

We provide details on the meetings of our Executive Team on our website [here](#).

We also hold an evidence note entitled 'The effectiveness of regulatory penalties in the public sector', which again was prepared by our Economic Analysis team.

Any evidence relied upon by Mr Edwards, which led him not to be convinced that 'large fines on their own are as effective a deterrent within the public sector'.

The Commissioner considered a cross section of views in this area, including his 2022 listening tour, internal analysis provided here and external academic research led by Professor Chris Hodges OBE of the University of Oxford on 'Outcome Based Cooperative Regulation'. This is publicly available at the following link.

[An Introduction to Outcome Based Cooperative Regulation \(OBCR\) by Christopher Hodges OBE :: SSRN](#)

This concludes our response to your request. We hope you found this information helpful.

Next steps

You can ask us to review of 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



Information Access Team
Risk and Governance Department, Corporate Strategy and
Planning Service
Information Commissioner's Office, Wycliffe House, Water
Lane, Wilmslow, Cheshire SK9 5AF
ico.org.uk twitter.com/iconews

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