

14 July 2023

IC-238966-N2N3

## Request

*Please could you provide information on the number of complaints made to the ICO in the past 5 years relating to*

*The Department for Education's failure to comply with the requirements and provisions for information under the Freedom of Information Act 2000 in that they*

*a. did not respond at all*

*b. did not responded within the specified time frame*

*c. did respond but either did not provide the information requested or alleged they did not have the information (despite their being evidence to the contrary)*

*In terms of the type of information we are seeking*

*1. the total number of complaints , and if possible if they feel into a-c*

*2. the total number of complaints upheld, and if possible if they feel into a-c*

*3. the nature of any penalties or sanctions as a result of 2 above*

Your request, received on 16 June 2023, has been handled under the Freedom of Information Act 2000 (the FOIA).

## Response

I have interpreted your request to be for complaints we have received about the Department for Education (DfE) under section 50 of the Freedom of Information Act (FOIA).

I can confirm that we hold some information in scope of your request.

## **Decision notices (DNs)**

We publish the DN's we have issued to public authorities on our website [here](#).

Using the filters on the left hand side of the page you can select the DfE, filter the results by date, and select 'complaint upheld' and 'complaint partly upheld' in order to find the DN's relevant to your request.

## **Other cases – datasets**

We hold 29 complaints received in the last three years that were informally resolved without a DN being issued. We do not hold data for complaints received prior to this because older cases are deleted in line with our retention schedule.

Information about cases completed between 1 January 2021 and 31 March 2023 can be found on our [published datasets](#).

You can filter the spreadsheets to find the information you are interested in:

- Column O for complaints about the DfE;
- Column Q for complaints that were informally resolved;
- Column N for the reason for complaint. Complaints about a late response would fall under 'S10 – time for compliance'. This would address point b of your request. Complaints about an exemption would address point c.
- Columns P and R provide further information about the outcome.

So, for example, the [Q1 2021/22](#) dataset contains one case that was informally resolved. The complaint related to a late response. Informal action was taken and then the complaint was withdrawn, which means that we wrote to the DfE and they subsequently provided a response to the request so the case was closed.

The [Q2 2021/22](#) dataset contains one case that was informally resolved. This related to the section 21 exemption. It was closed with an outcome of 'no further action'. This is because we agreed with the DfE's use of the exemption.

As this information is available to you it is technically withheld under section 21 of the FOIA.

## **Other cases – not contained in datasets**

There are five cases held that do not feature on the datasets because they were completed either before Q1 2021/22 or after Q4 2022/23:

The details of these are as follows:

1. Complaint related to exemptions applied, DfE disclosed the information during the course of the complaint.
2. Complaint related to a late response. The DfE subsequently provided a response and the complaint was withdrawn.
3. Complaint related to a late response. The DfE subsequently provided a response and the complaint was withdrawn.
4. Complaint related to a late response. The DfE subsequently provided a response and the complaint was withdrawn.
5. The DfE had refused to respond to the request as it was vexatious. We agreed with the DfE and the complaint was withdrawn.

You have also asked for the number of times the DfE have claimed they do not hold information despite evidence to the contrary. This would be a criminal offence under section 77 of the FOIA. I have consulted with the Criminal Investigations team and I can confirm that we do not hold any information in scope of this part of your request.

This concludes our response to your request.

## **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



Information Access Team  
Risk and Governance Department, Corporate Strategy and  
Planning Service  
Information Commissioner's Office, Wycliffe House, Water  
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