19 July 2023

Case reference: IC-241022-G7G3

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

Request

"*According to subparagraph 4 of section 77 of the FOIA, namely the following :*

77. Offence of altering etc. records with intent to prevent disclosure...
(4)No proceedings for an offence under this section shall be instituted—
(a)in England or Wales, except by the Commissioner or by or with the consent of the Director of Public Prosecutions;
(b)in Northern Ireland, except by the Commissioner or by or with the consent of the Director of Public Prosecutions for Northern Ireland. [link]

Question 1: Please can you provide me with the case names and the year of all cases prosecuted by the ICO specifically under this section 77 violation, restricted in scope against only public bodies, since the establishment of the ICO.
Q2. Of those in reply to Q1, please can you tell me the type or category of Public Bodies prosecuted and the reprisal action taken or secured through public prosecution?
Q3. Of those Public Bodies in answers to Q1 & Q2, how many have been Local Authority Councils?
Q4. Out of those Local Authorities prosecuted by the ICO in Q3, what single case has been the largest penalty secured against a Local Authority?"

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

Our response

We can confirm we do not hold information within scope of your request. This is because there have been no prosecutions under section 77 of the FOIA against a

public body. The two prosecutions pursued by the ICO have been against individuals. Further details on these are provided below.

In 2018, Suzanne Brimm at Thanet District Council in Kent was charged with concealing and destroying records under section 77 of the FOIA between 31 July and 5 September 2017. This was the first prosecution brought under this section since the FOIA came into force. The case was heard at Canterbury Magistrates Court (previously due to be dealt with at Folkstone Magistrates Court). On 17 September 2018, the individual was found not guilty on these charges.

In 2020, Nicola Young at Whitchurch Town Council in Shropshire was charged with blocking records with the intention of preventing disclosure under section 77 of the FOIA. The case was heard at Crewe Magistrates Court. On 11 March 2020, the individual was fined £400, ordered to pay costs of £1,493 and a victim surcharge of £40.

This successful prosecution in 2020 was published on our website and is now available on the archived version at The National Archives here.

You may find the following responses on our disclosure log helpful in your area of interest.

IC-141912-L5P6 (list of successful section 77 FOIA prosecutions from 2015 to 2021).
IC-155125-H1M7 (section 77 investigations and prosecutions from 2017 to 2021).

You can find details of our enforcement action on our website here. You can also find our Communicating regulatory and enforcement action policy online here.

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

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