

4 August 2023

IC-248683-D3V3

Request

Hardly a statement of whether @worldcoin is operating legally. Have you requested a copy of the DPIA? Are there any lawful bases for processing? What does their processing notice say about consent and withdrawal, how is it captured? You really are just too slow to act.

And as you seem to be very keen on restating basic data protection requirements, you can treat these questions as a FOI request.

Your request, received on 31 July 2023, has been handled under the Freedom of Information Act 2000 (the FOIA).

Response

We can neither confirm nor deny whether we hold the information you have requested in accordance with section 31(3) of the FOIA, explained in further detail below.

As explained in our public [statement](#) we will be making enquiries into WorldCoin.

Your request was made on the same day this statement was issued. Clearly, our enquiries are still at an early stage.

FOIA section 31 (NCND)

Section 31(1)(g) exempts information if its disclosure would, or would be likely to prejudice:

"the exercise by any public authority of its functions for any of the purposes specified in subsection (2),"

With the relevant subsections to this request being 2(a) and 2(c):

"(a) the purpose of ascertaining whether any person has failed to comply with the law" and

"(c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise ..."

These purposes apply in relation to the information you have requested, given that we making enquiries into the data protection compliance of WorldCoin.

Section 31(3) provides that:

"The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice any of the matters mentioned in subsection (1)."

We find that confirming or denying whether information has yet been requested from, and/or provided by, WorldCoin would interfere with our ability to conduct our enquiries as we see fit.

Section 31 is not an absolute exemption, however. The duty to confirm or deny depends on the balance of the public interest.

It is our view that the balance of the public interest supports the use of the provision to neither confirm nor deny that the requested information is held, for the following reasons:

- If the ICO were to reveal details about the status of our enquiries this could lead to WorldCoin being reluctant to cooperate with us.
- Revealing information at this early stage could lead to other parties being reluctant to engage with the ICO in the future.
- Space is needed to conduct our enquiries without distraction due to information being prematurely released into the public domain.

It is also necessary to adopt a consistent approach to our response to requests for information about such matters, in the public interest, because any inconsistency could lead to inferences being made about that response, but also could inadvertently lead to conclusions being drawn about other 'neither confirm nor deny' (NCND) responses.

There is a risk that a confirmation or denial - which in itself appears benign - could enable somebody to deduce whether information was in fact held or not in other circumstances where an NCND response had

been given. In such circumstances, that deduction could itself prejudice open enquiries, investigations and proceedings undertaken by the ICO.

It is therefore our view that, irrespective of the specific public interest in transparency in any individual case, the importance of maintaining the integrity of the NCND responses, past and present, is of the greater public interest.

Combine this with the public interest arguments specific to this request and I trust it will be clear why our response in the present case must be to neither confirm nor deny that the information you have requested is held by the ICO.

For the avoidance of doubt, therefore, nothing in the above should be taken as being either confirmation or denial that the ICO has requested a DPIA from WorldCoin and/or received any information from them.

Please note, however, that regardless of whether we hold it or not, WorldCoin privacy information has been made available to the public via their own website.

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.

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
Information Commissioner's Office
Wycliffe House, Water Lane, Wilmslow, Cheshire
SK9 5AF
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