

By email

9 August 2023

**Case reference: IC-243905-N0J1**

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

**Request**

In your email you asked the following:

*"Please may I have copies of all documents used by the ICO (assurance dept?) to audit AI e.g here: [A Guide to ICO Audit Artificial Intelligence \(AI\) Audits](#). Including assurance ratings.*

*Would be helpful to see any redacted completed audit documentation too (with target confidential info removed)."*

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

**Our response**

We have interpreted the first part of your request to be the documents used by our Assurance department in the completion of the Artificial Intelligence (AI) data protection audits. We have not included within scope other general administration documents the Assurance team may use that are not specific to the AI audits.

With regards to the second part of your request, we understand this to be the completed documentation as listed below for the AI data protection audits we have undertaken.

We can confirm we hold information within scope of your request. Please find enclosed the information to which you are entitled. This consists of the following documents which are in scope of the first part of your request.

AI audit pre audit documentation and evidence index  
AI audit draft report template  
AI audit scoping questionnaire  
AI audit scoping meeting agenda template  
AI audit control library  
AI audit toolkit and working paper (AI audit toolkit)

For the Excel documents (pre audit documentation/evidence index, control library and toolkit), we are only able to provide these as a PDF or .CSV format. The latter only reproduces the text. As the toolkit contains graphics we have used a large size PDF rendition which you can zoom into to see the detail. The same format has been used for the other Excel documents.

The AI audit control library gives an overview of content of the full AI audit toolkit. To help you navigate the toolkit, the topic areas along with the page numbers are provided below.

Governance (1-2)  
Transparency (3-4)  
Lawful basis (5-7)  
Session one (8)  
Contracts and third parties (9-13)  
Data minimisation (14-15)  
Individual rights (16-17)  
Session two (18)  
Staff training (19-20)  
DP risk management (21-23)  
Security and integrity (24-26)  
Session three (27)  
Trade offs (28)  
Statistical accuracy (29-31)  
Discrimination and bias (32-34)  
Human review (35)  
Session four (36)  
Report (37-49)  
Graphs and charts (50)  
Rating calc (51)  
Graph calc (52)  
Version (53)

Please note, the AI audit toolkit is a working document and subject to revision in light of regulatory and legislative changes. AI is a dynamic technology and the toolkit is designed to be updated as this area developments.

You will see that some of the cells in the 'session' tabs are infilled. This is as a result of Assurance testing the toolkit and is not reflective of any input based on an actual audit.

With regards to the second part of your request, we have conducted AI data protection audits. The executive summary of the MeVitae audit can be found on our website [here](#).

We are withholding the full AI data protection audit reports, along with the other completed documentation for these audits as listed above pursuant to section 31(1)(g) and section 44 of the FOIA. Further detail on these exemptions is provided below.

### Section 31 FOIA

We consider that the information we hold within scope of the second part of your request to be exempt from disclosure under section 31(1)(g) of the FOIA. This section states:

"Information... is exempt information if its disclosure under this Act would, or would be likely to, prejudice – (g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2)"

The purposes referred to in sections 31(2)(a) and (c) are:

- a. the purpose of ascertaining whether any person has failed to comply with the law
- c. the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise

The purposes at section 31(2)(a) and (c) apply when the Information Commissioner is determining whether or not data controllers are complying with their obligations under data protection legislation. As such we find this exemption is engaged and we consider that disclosure of the information we hold would be likely to prejudice our ability to effectively carry out our regulatory function.

The exemption at section 31 is not absolute, and we need to consider the public interest test by weighing up the factors for and against disclosure of this

information, as well as any prejudice or harm which may be caused by disclosure.

In this case, the public interest factors in disclosing the completed audit documentation are:

- Openness and transparency in the way in which the ICO conducts AI data protection audits and assesses compliance.
- Disclosure would help to demonstrate that the ICO is complying with its duties by overseeing the performance of data controllers in the areas of data protection and artificial intelligence.

The public interest factors in favour of maintaining the exemption are:

- Maintaining the confidentiality of information provided and evidence considered as part of our auditing process.
- Ensuring that the ICO is able to have effective relationships with data controllers and that they continue to work with us in an open and collaborative way without fear that information provided will be made public when it is not in line with our stated disclosure policy. We rely on the cooperation of data controllers to conduct our audits. Data controllers would likely be dissuaded from engaging with us if we were to disclose information provided in confidence that is contained within our completed audit paperwork.
- We publish information about the data protection audits we undertake when it is appropriate to do so and in line with our [Communicating our regulatory and enforcement activity policy](#). This includes an executive summary of the audit report. We also provide comprehensive information on how we conduct audits on our website [here](#).

Having considered all of these factors, we have taken the decision that the public interest in withholding the information outweighs the public interest in disclosing it and the information you have asked for in the second part of your request is exempt from disclosure under section 31(1)(g) of the FOIA.

### Section 44 FOIA

We also consider that the exemption at section 44 of the FOIA applies to the requested information in the second part of your request.

This is an absolute exemption which means that it can be withheld without further consideration if other legislation prevents its release, if it meets certain

conditions, and if none of the circumstances that would give us lawful authority to release it apply. Section 44(1)(a) of the FOIA states;

'(1) Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it – a. is prohibited by or under any enactment'

In this case, the Data Protection Act 2018, Part 5, Section 132 prohibits the disclosure of confidential information that:

- a. has been obtained by, or provided to, the Commissioner in the course of, or for the purposes of, the discharging of the Commissioner's functions,
- b. relates to an identified or identifiable individual or business, and
- c. is not available to the public from other sources at the time of the disclosure and has not previously been available to the public from other sources, unless the disclosure is made with lawful authority.

We do not have lawful authority to disclose to you the information relating to the completed AI data protection audits as this information was provided to us in confidence.

Section 132(3) imposes a criminal liability on the Commissioner and his staff not to disclose information relating to an identifiable individual or business for the purposes of carrying out our regulatory functions, unless we have the lawful authority to do so or it has been made public from another source.

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  
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[ico.org.uk](http://ico.org.uk) [twitter.com/iconews](https://twitter.com/iconews)

**For information about what we do with personal data  
see our [privacy notice](#)**