

10 August 2023

IC-244488-X0C5

Request

You asked us:

Could you please provide me with the following information:

"1. All correspondence and communications between the Information Commissioner, John Edward, and the Secretary of State for Digital, Culture, Media & Sport that mentions "online harms" or "online safety bill" between 3 January 2022 and the date this request was received

1. All correspondence and communications between the Information Commissioner, John Edward, and ministers of state for Digital, Culture, Media & Sport that mentions "online harms" or "online safety bill" between 3 January 2022 and the date this request was received?

I am happy for you to confine the search to electronic-only sources."

We received your request on 12 July 2023.

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

Please note that our sponsoring body, and the body responsible for the topics you are interested in, changed from the Department for Digital, Culture, Media and Sport (DCMS) to the Department for Science, Innovation and Technology (DSIT) on 7 February 2023. As such, we have also considered correspondence from DSIT for disclosure.

We have interpreted your request as being for correspondence specifically between the Commissioner and either the Secretary of State or ministers of state for DCMS and DSIT that mentions either "online harms" or "online safety bill." To be clear, this means that we have **not** considered for disclosure any

correspondence between teams within the ICO and DCMS/DSIT unless it has taken place at a ministerial level.

Our response

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

Please find attached the information you have requested.

You will note that we have redacted some information, in particular some of the names and email addresses within the correspondence. These have been withheld for a number of reasons, which can be found below.

Information withheld

FOIA section 31

We have withheld an internal email address under section 31(1)(g) of the FOIA. We can do this when the disclosure of information "*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).*"

In this case the relevant purposes contained in subsection 31(2) are 31(2)(a) and 31(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."*

Misuse of internal email addresses that exist to support ICO staff would likely prejudice our ability to perform our regulatory functions. Disclosure would leave us vulnerable to phishing or other cyber-attacks, spam, or an increased volume of irrelevant correspondence which it would take us time to process.

There are other channels that the public can use to contact us, and they are publicly available via [our website](#).

The exemption at section 31(1)(g) is not absolute. When considering whether to apply it in response to a request for information, there is a 'public interest test'. We have to consider whether the public interest favours withholding or disclosing the information.

In this case the public interest factor in favour of disclosing the information is:

- Increased transparency in the way in which the ICO conducts its operations.

The public interest factors in maintaining the exemption are as follows:

- Internal email addresses being used inappropriately will reduce the effectiveness and efficiency of our regulatory functions.
- The information of primary relevance to your request is not affected by the redaction of our internal email addresses.
- The public interest in transparency is met by the public provision of other more appropriate means of contacting us.

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.

FOIA section 40(2)

You will see that some personal data of staff at both the ICO and DCMS/DSIT has been redacted in our response.

Section 40(2) of the FOIA exempts information if it is personal data belonging to an individual other than the requester and it satisfies one of the conditions listed in the legislation.

We find that the condition at section 40(3A)(a) applies in this instance: that disclosure would breach one of the data protection principles. The principles are outlined in the General Data Protection Regulation (GDPR) with the relevant principle on this occasion being the first principle as provided by Article 5(1): that personal data shall be processed lawfully, fairly and in a transparent manner.

We do not consider that disclosing this information into the public domain is necessary or justified. There is no strong legitimate interest that would override the prejudice to the rights and freedoms of the relevant data subjects. We have therefore taken the decision that disclosing this information would be unlawful, triggering the exemption at section 40(2) of the FOIA.

FOIA section 44 (& DPA s132)

Some external email addresses have been withheld under section 44 of the FOIA.

Section 44(1)(a) 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"

The enactment in question is the Data Protection Act 2018. Section 132(1) of part 5 of that Act states that:

"A person who is or has been the Commissioner, or a member of the Commissioner's staff or an agent of the Commissioner, must not disclose information which—

(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."

Section 132(2) lists circumstances in which a disclosure can be made with lawful authority, however none of them apply here. As a result the information is exempt from disclosure.

This concludes our response to your request.

Next steps

You can ask us to review 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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