

18 July 2023

## Case reference IC-241836-D8Y1

### Request

We have handled the following question under the Freedom of Information Act 2000 (the FOIA), as it is asking for recorded information held by the ICO.

You asked us:

*"Does the ICO have a policy that promotes openness, transparency and accountability in respect of its regulatory complaints procedures?"*

We received your request on 29 June 2023.

The remaining questions could be considered as requests for opinion or comment, so we have not considered them under the FOIA, however we have answered them below as well.

### Our response

We have listed your questions and our answers underneath:

#### ***I am emailing to submit a freedom of information request:***

- 1. Can you confirm Personal data means any information relating to an identified or identifiable living person the "data subject". A data subject may be identified directly or indirectly, in particular by reference to an identifier. These identifiers may include a name, location, an email address or computer IP address?***

Yes.

**2. Does the ICO comply with the Human Rights Act in consideration of any complaints it receives in respect of the complainant rights?**

The Human Rights Act 1998 applies in the United Kingdom. As the ICO is a UK public authority, the legislation applies to the ICO.

The ICO receives complaints relating to information legislation. We may consider other legislation and factors, if relevant, but our complaint cases are intended as a regulatory channel to allow us to consider whether information legislation has been followed in specific cases from complainants.

**3. Does the ICO have a policy that promotes openness, transparency and accountability in respect of its regulatory complaints procedures?**

Our documented policies are available on our website here:

<https://ico.org.uk/about-the-ico/our-information/policies-and-procedures/>

The following links on our website may provide you more understanding of our general approach:

- Service Standards - <https://ico.org.uk/about-the-ico/our-information/our-service-standards/>
- ICO Service Charter - <https://ico.org.uk/media/4018507/ico-service-charter.pdf>

**4. Does the ICO provide a complainant with a copy of the full investigation and analysis of any complaint it receives in its regulatory role to ensure accuracy when arriving at its decisions?**

The ICO provides complainants with a copy of the outcome letter and the case officers will address queries from complainants.

We will not routinely disclose copies of all information processed during a complaint case. Requests for extra information are handled by us (the Information Access team).

**5. According to the ICO own Investigation Manual, Policies caseworkers must analysis and formally record its full decision in respect of a complaint. Can you confirm this is done?**

Yes, case officers will take into account the available information and evidence for a case, and will communicate their decisions to the relevant parties (including the complainant).

**6. When dealing with complaints made in respect of public bodies does the ICO request, obtain and taking into account the public bodies policies, procedures, legal records and legal obligation before arriving at its decision in respect of a complaint?**

Case officers will request and obtain any required information to gain an understanding of how the complainant's case has been handled by the relevant organisation at their end.

However, case officers are not expected to carry out an informal audit of an organisation during the handling of a complaint case. For the purposes of a complaint case, the case officer will need to request and obtain information strictly to understand if the organisation has complied with its obligations in particular cases, so it may not be necessary to request and obtain certain documentation or information.

**7. What steps does the ICO taken to ensure the accuracy of information provided by a public bodies under investigation?**

Case officers may make their own judgement about the information received from organisations during the case-handling process, and query anything if necessary. If a complainant requests a case review by a reviewing officer (someone not previously involved with the case), that officer may request further information if necessary, or ask for clarification from the organisation.

It is worth noting it is an offence under the Data Protection Act 2018 for a person to provide false information in response to an information notice issued by the ICO.

**8. What due diligence is carried out in respect of complaints investigated by the ICO in respect of data protection and freedom of information complaints?**

An overview of the ICO's data protection and freedom of information complaint process is available on our website here:

<https://ico.org.uk/make-a-complaint/data-protection-complaints/what-to-expect/>

<https://ico.org.uk/make-a-complaint/foi-and-eir-complaints/what-to-expect-from-the-ico-when-making-an-foi-or-eir-complaint/>

We are not sure if the following points are what you require, however, we can provide assurance that –

- Case officers will engage with relevant parties to ensure they have all required documentation and evidence before they make a decision about the complaint case
- Case officers and senior staff have access to our case management system to record information and check any relevant cases. Any notes and records of correspondence will be securely stored there
- Staff have access to the relevant legislation and guidance which can be consulted if needed
- All outcomes will be communicated to the relevant parties, including explanations about the decisions
- Senior officers and managerial staff are in place to support case officers. Reviewing officers can take a second look at how a case has been handled
- All ICO staff complete extensive training in DP and FOI matters when they begin employment at the ICO

## 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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