

22 August 2023

IC-249325-Z6Q7

Request

You asked us:

"Just getting in touch as have some people flagging issues to me about the Met Police's CONNECT system, saying it's not really working as intended and leading to lots of day-to-day working issues for officers. Off the back of this I had a little look around and found that a lot of issues were being flagged by MOPAC and the Met, for example around the system's inability to meet the DPA 18s S62 logging requirements and the lack of effective audit capabilities undermining its ability to respond to SARs within the statutory time frame.

These issues were being openly discussed in MOPAC/Met Police meetings. Here is a MOPAC document outlining the issues and talking about "the risk of ICO involvement": https://www.london.gov.uk/sites/default/files/item_2_connect.pdf

Was the ICO ever made aware of these issues by any of the bodies involved? It doesn't seem like they ever contacted the ICO from what I can find but wanted to check with you just in case. If they did indeed contact the ICO, are you able to provide any further info on that engagement and whether those risks were adequately mitigated?."

We received your request on 26 July 2023.

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

Our response

We can neither confirm nor deny whether we have been made aware of the issues that you refer to in your request. I have explained the reasons for this below.

NCND - section 31 FOIA 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 there could be open investigations into the issues that you referenced.

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 representations had yet been made would be premature at this stage and would interfere with any open investigation.

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. This is because if the ICO were to reveal whether representations had yet been made – or indeed, were to disclose any specific detail about the status of any open investigation - this would be likely to harm the investigation process and could lead public authorities being reluctant to cooperate with us. Further, revealing the status of an investigation could lead to other parties being reluctant to engage with the ICO in future investigations.

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 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 received correspondence from the quoted bodies.

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 and EIR. 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

Senior Information Access Officer



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