

10 October 2023

IC-257241-B3P6

## **Request**

1)

*a) The current ICO FOI and EIR appeal caseload, broken down by public authority.*

*b) If held, the exemption cited by the authority in refusing to release information.*

*Please provide this information as of the date of this request or the nearest possible data-collection date.*

*2) The current number of ICO appeal cases where a response from the Cabinet Office for submissions to ICO officers is overdue, as of the date of this request or the nearest possible data-collection date.*

*3) The number of cases in the last year in which the ICO has ordered the Cabinet Office to release information in a decision notice, but the Cabinet Office failed to disclose the information within 35 days.*

*4) Please state the number of cases where the ICO has ordered the Cabinet Office to release information in a decision notice but:*

*a) A disclosure is still outstanding, after the 35 days to comply has expired as of the date of this request or the nearest possible data-collection date.*

*b) The ICO has referred a non-compliance to its solicitors for contempt of court action.*

*c) Contempt of court action has commenced.*

*4) Please state the number of appeals taken by the Cabinet Office against an ICO decision notice ordering it to disclose information to the First Tier Tribunal, that are currently open.*

Your request, received on 12 September 2023, has been handled under the Freedom of Information Act 2000 (the FOIA).

## Response

I can confirm that we hold information in scope of your request. I will address each of your points in turn.

1)

*a) The current ICO FOI and EIR appeal caseload, broken down by public authority.*

*b) If held, the exemption cited by the authority in refusing to release information.*

*Please provide this information as of the date of this request or the nearest possible data-collection date.*

We publish quarterly reports of our [open FOI complaint caseload](#) on our website. This can be filtered by public authority and exemption cited.

Because this information is available to you, it is technically withheld under section 21 of the FOIA. This exempts information which is reasonably accessible to the applicant through means other than a request under the FOIA.

It is an absolute exemption, which means it is not necessary for us to consider any public interest test.

*2) The current number of ICO appeal cases where a response from the Cabinet Office for submissions to ICO officers is overdue, as of the date of this request or the nearest possible data-collection date.*

There are currently 13 open cases in which Cabinet Office submissions are overdue.

To provide some additional context, there are 44 open Cabinet Office cases where we are waiting for a response but have not provided a deadline. We explain this in further detail below.

*3) The number of cases in the last year in which the ICO has ordered the Cabinet Office to release information in a decision notice, but the Cabinet Office failed to disclose the information within 35 days.*

Nine.

*4) Please state the number of cases where the ICO has ordered the Cabinet Office to release information in a decision notice but:*

- a) A disclosure is still outstanding, after the 35 days to comply has expired as of the date of this request or the nearest possible data-collection date.*

Two, one of which is currently under appeal at Tribunal.

- b) The ICO has referred a non-compliance to its solicitors for contempt of court action.*

Two.

- c) Contempt of court action has commenced.*

None.

*4) Please state the number of appeals taken by the Cabinet Office against an ICO decision notice ordering it to disclose information to the First Tier Tribunal, that are currently open.*

Two.

### **Advice and assistance**

There are 44 open Cabinet Office complaints submitted between April 2022 and March 2023 where we are waiting for submissions but we have not provided a deadline.

This is to allow the Cabinet Office capacity to balance the work required on those cases with our expectations (for all public authorities) on meeting deadlines for responses on all cases submitted to the ICO since April 2023. However, we are regularly tracking progress and engaging with the Cabinet Office on all cases in order to clear the backlog over the coming months.

There are a further three cases where a deadline was initially given, but which we are now not requiring the Cabinet Office to respond by. This is in order to aid a consistency of approach to cases outstanding between April 2022 and March 2023.

Further information can be found via the following links:

<https://ico.org.uk/about-the-ico/our-information/our-performance/>

[Blog: Director's Update – celebrating success and challenging ourselves for the future | ICO](#)

[Director's update – Delivering more strategic regulation in 12 months than in the lifetime of FOI | ICO](#)

### **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](mailto: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

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

Please consider the environment before printing this email

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