

20 October 2023

**IC-262475-D6K9**

**Request for Information**

Further to our acknowledgement of 6 October we can now respond to your request for information of the same date.

We have dealt with your request in accordance with the Freedom of Information Act 2000 (FOIA).

**Request**

In your email, you asked:

*"The questions below pertain to ICO data protection complaints and any complaints relating to artificial intelligence (AI) where there is data available in 2019, 2020, 2021, 2022 and 2023. Please can you tell me:*

- 1) *For any of the complaints data held by the ICO, what was:*
  - a) *The total number of complaints relating to artificial intelligence (AI) or popular AI tools (such as Chat GPT) broken down by quarter?*
    - a. *Of that dataset, what was the breakdown of decisions made by the ICO and the reason given for that decision?*
      - i. *And how does that proportion compare to the average breakdown of decisions made by the ICO on all complaints over the same period?*
    - b. *Of that dataset what was the breakdown of sectors involved?*
      - i. *And how does that breakdown compare to the number of complaints per sector logged by the ICO on all complaints over the same period?*

- 2) *How many current ongoing investigations is the ICO conducting relating to the*

*use or provision of AI tools?*

*a. What was this figure for each of the above years (2019-2023)? "*

## **Our response**

It is not possible to confirm the extent to which we hold information falling within the scope of your request. This is because conducting the relevant searches would breach the cost limit envisaged by section 12 of the FOIA. Section 12(2) of the FOIA states that a public authority is not obliged to confirm or deny if requested information is held if the estimated cost of establishing this would exceed the appropriate cost limit.

I have provided some more detail about why this is the case in this instance below, along with some advice about how a refreshed request, with a more narrow scope, may elicit information which is of interest to you.

## **FOIA section 12**

Section 12 of the FOIA makes clear that a public authority is not obliged to comply with an FOIA request if the authority estimates that the cost of complying with the request would exceed the 'appropriate limit'.

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 stipulates that the 'appropriate limit' for the ICO is £450. We have determined that £450 would equate to 18 hours work.

Under data protection legislation, individuals have the right to lodge a complaint with the ICO as the relevant supervisory authority in the UK. The details of these complaints, along with the details of thousands of other enquiries and concerns regarding the other laws we oversee, are processed within a casework management system.

An electronic record is created for every case, every complainant and every 'complained about' organisation. This is because part of our role is to improve the information rights practices of organisations by gathering and dealing with concerns raised by members of the public.

The system allows us to search for the cases we have dealt with in a number of different ways, such as by the unique reference number the case was given, the name and address of the person who contacted us and the name of the body that has been complained about. We can also search for cases on the basis of the broad nature of the complaint, such as that it relates to subject access.

However it is not possible to electronically search for cases that relate to AI or AI tools, as our system does not categorise cases according to this measure, and this is an element that could feature as part of complaints falling under any of the different categories that our system does use to indicate the nature of the complaint.

This is not information we would require for our business needs. As such, to establish the information that we hold and which falls within the scope of request would require a manual search at the correspondence on thousands of cases.

The ICO handles around 40,000 data protection complaints each year. Assuming that each search of a case file would take approximately 3 minutes to complete – and it is certain that some searches would take much longer than that – this would equate to far in excess of the 18 hours which would accrue a charge of £450 or less, triggering the provisions of section 12 of the FOIA.

### **Advice and assistance**

The information that we are able to produce and disclose in dataset format about the complaints that we have handled is available on our website [here](#). This includes details of the data controller concerned, the nature of the complaint, the sector and case outcome.

If you believe we may have handled a complaint against a particular organisation or group of organisations concerning AI or AI tools, you could resubmit your request, limited to complaints about those organisations, and we should be able to respond to that request without breaching the costs limit. However, this would depend on how many complaints had been generated against those organisations and if this were a very high number in total, s.12 may still apply. Please also note that the historic data we are able to provide is limited by our retention schedule.

With regards to the second part of your request, we again would only be able to answer this if you were to provide the name or names of data controllers you believe may be subject to such investigations. You can also find datasets with details of our completed investigations on our website [here](#).

I should also advise that we could not guarantee the accuracy of the results provided following a manual search.

Consideration can also be given as to whether the value to the public of the

information derived from such searches is proportionate to the effort to locate it.

### **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

Corporate Planning, Risk and Governance Directorate  
Information Commissioner's Office, Wycliffe House, Water  
Lane, Wilmslow, Cheshire SK9 5AF

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