

20 October 2023

Case reference: IC-259418-M3J5

We are now in a position to respond to your information request.

Request

We received your request on 22 September 2023. You asked us:

I am sending this request under the Freedom of Information Act to ask for the following information:

Copies of all communications since 1 March 2023 between the ICO and the office of the Police Ombudsman for Northern Ireland relating to the holding and processing of personal data that has been used for security vetting purposes.

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

Our response

We can confirm that we hold information in scope of your request. Please find attached the information to which you are entitled. Some information has been withheld from disclosure, with the application of exemptions details further below.

Section 40(2) FOIA

Som of the information has been withheld section 40(2) by virtue of section 40(3)(a)(i), which is the exemption under FOIA concerning personal information. Specifically, this information constitutes the personal data of PONI employees with whom the ICO corresponded, as well as the identifying information of an ICO employee who does not occupy a forward facing role in the organisation.

Section 40(2) of the FOIA allows a public authority to withhold information from a response to a request when the information requested is personal data relating to someone other than the requestor, and its disclosure would contravene one of the data protection principles.

We are satisfied that disclosure of this data would break the first principle of data protection - that personal data is processed lawfully, fairly and in a transparent manner.

There is no strong legitimate interest that would override the prejudice that disclosure would cause to the rights and freedoms of the individuals concerned. So we are withholding the information under section 40(2) of the FOIA.

Section 44 FOIA

We have withheld some information under Section 44 of the Freedom of Information Act 2000—specifically, information provided by the office of the Police Ombudsman for Northern Ireland for consideration by the ICO. Some correspondence from PONI has been withheld in full and we have also applied redactions to information contained in the disclosure bundle.

Section 44 is an absolute exemption which means that information can be withheld without consideration of the public interest if other legislation prevents its release, if it meets certain conditions, and if none of the circumstances that would give us lawful authority to release it apply.

Section 44(1)(a) of the FOIA 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'

In this case, the Data Protection Act 2018, Part 5, Section 132 prohibits the disclosure of confidential information that –

- 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.

We do not have lawful authority to disclose this information as it was provided to us in confidence. PONI have not provided consent for the disclosure of this information in response to your request. Section 132(3) imposes a criminal liability on the Commissioner and his staff not to disclose information relating to an identifiable individual or business for the purposes of carrying out our regulatory functions, unless we have the lawful authority to do so or it has been made public from another source.

This concludes our response to your request. We hope you found this information helpful.

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