

12 January 2024

Case reference: IC-278281-B1P9

We are now in a position to respond to your information request of 22 December 2023.

Request

"please consider this a FOI query. Can you provide information related to the @cabinetofficeuk recovery plan you created? I'm interested in contents, ancillary documents, if it restricts enforcement mechanisms, etc."

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

Our response

We responded to a previous request that included this information in December 2023. This response was not published on our disclosure log at the time of your request but is now available online [here](#).

We can confirm we hold information within scope of your request. We are withholding this information as it is exempt under section 31 of the FOIA. Further details on this are provided below.

The exemption at section 31(1)(g) of the FOIA refers to circumstances where the disclosure of information, *"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)."*

In this case, the relevant subsection is 31(2)(c) which states, *"(c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise..."*

Clearly, these purposes apply when the Information Commissioner has obtained or created information during an investigation.

The exemption at section 31 is not absolute, and we need to consider the public interest test by weighing up the factors for and against disclosure of the information we hold, as well as any prejudice or harm which may be caused by disclosure.

The information you have requested forms part of a live regulatory matter that is ongoing. We believe that disclosure of this information would be likely to disrupt our ability to engage with the Cabinet Office and work with them to progress our investigation. This in turn would be likely to impact our ability to negotiate outcomes for individuals exercising their right to access information in line with our regulatory duty.

This exemption is not absolute. When considering whether to apply it in response to a request for information, there is a 'public interest test'. That is, we must consider whether the public interest favours withholding or disclosing the information.

Public interest in favour of disclosure:

- There is a public interest in the ICO being open and transparent regarding our regulatory activities. Such openness and transparency helps to promote public awareness and understanding of the ICO's regulatory functions.
- There is a public interest in the ICO publishing information which would help to demonstrate that it is complying with its duties.

Public interest in favour of maintaining the exemption:

- There is a strong public interest in the Commissioner ensuring that no information is disclosed prematurely in a way that would or would be likely to cause harm to a live regulatory matter;
- There is a public interest in maintaining our ability to conduct investigations and consider regulatory action in line with established processes and procedures without the risk of prejudicing these investigations and any subsequent regulatory action we may decide to take;
- There is a public interest in the ICO providing a cost effective and efficient regulatory function. This relies on the cooperation of those we regulate and we feel this is best achieved by an informal, open, voluntary and uninhibited exchange of information with these organisations.
- There is a public interest in the ICO being an effective and efficient regulator. It is essential to the efficacy of the ICO as a regulator that we are able to express our views and opinions in confidence where we need to. We need a safe space to formulate our conclusions and in which to communicate with those we regulate.

Having considered all of these factors, we have taken the decision that the public interest in withholding the information outweighs the public interest in disclosing it.

Advice and assistance

You may find the following information useful in your area of interest.

We publish quarterly performance scorecards which include commentary on the Cabinet Office backlog cases and progress made. These are available on our website [here](#).

We also publish casework [data sets](#) regarding complaints we are currently handling and have handled from members of the public under section 50 of the FOIA. These data sets can be filtered by the 'Submitted about account' which would allow you to locate cases relating to the Cabinet Office.

Warren Seddon, Director of Freedom of Information and Transparency, published a [blog](#) earlier this year which discusses how our FOI complaints teams worked on reducing the backlog and sets out some of the challenges which remained.

This concludes our response to your request. We understand this response may be disappointing but hope the information provided above is 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 sets out [your rights](#). Our [Retention and Disposal Policy](#) details how long we keep information.

Yours sincerely



Information Access Team
Risk and Governance Department, Corporate Strategy and
Planning Service
Information Commissioner's Office, Wycliffe House, Water
Lane, Wilmslow, Cheshire SK9 5AF
ico.org.uk twitter.com/iconews

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