

9 January 2024

IC-271876-P4B2

Review of response to information request

I write further to your email of 12 December 2023 in which you requested a review of the handling of your request dealt with under the reference number IC-271876-P4B2.

The purpose of an internal review is to look again at your request, at our response, and to check that any exemptions applied were appropriate.

As a result we have conducted an internal review of our response to your information request. I am a Team Manager in the Information Access Team and I can confirm that I have had no prior involvement in the handling of this request.

Request and response

On 13 November 2023 we received a request from you which sought the following information:

Please tell me how many complaints against Sunderland and South Tyneside NHS Trust there have been since the DPA 2018 came into effect.

Please provide any breakdown regarding the nature of the complaint and any action undertaken in respect to them.

On 11 December 2023 we responded by advising you that the information you requested is available via our complaints and concerns datasets, as well as providing relevant links to the datasets and supporting information. This information was therefore technically withheld under Section 21 of the FOIA.

We also explained that some of the information you requested is due to be published in our Q2 2023/2024 dataset. As this information was due to be published at a later date, it was withheld under Section 22 of the FOIA.

Review

In your email of 12 December 2023, you have made a number of points, each of which I will address in turn.

"The PDF file you have supplied as a response appears to be less than helpful as the link allegedly provided to take the browser to the data requested takes you to this page <https://ico.org.uk/about-the-ico/our-information/complaints-and-concerns-data-sets/> which holds no data sets at all.

Upon clicking the heading "Data Protection Data Sets" it opens this page <https://ico.org.uk/about-the-ico/our-information/complaints-and-concerns-data-sets/data-protection-complaints/> which contains a number of what appear to be links claiming that they are "Data Protection Complaints about the ICO."

The link we initially provided takes you to the ICO website page which contains further links to the various datasets we publish. I do not accept that providing this link was 'less than helpful', as you were clearly able to locate the relevant page for the data protection complaints datasets.

"Unfortunately clicking on any of those links initiates the download of a file marked .csv and a search of the internet states it can be opened in a text program.

Having opened the file in note pad I have attached a screen shot of what is displayed and as you can see it is a meaningless jumble of text with what would appear to be a list of headings at the top which do not match up with the information below making the disclosure unintelligible to anyone who does not have the specialist software able to correctly display the file format you allegedly publish it in."

CSV files are primarily intended to be opened in Microsoft Excel. If you do not have a copy of Microsoft Excel, Microsoft offer a free online version which can be used to open CSV files. Whilst I appreciate you may not currently have access to Excel, the fact that a free online version which you would be able to use to open the data protection complaint datasets means that, in my view, the datasets are reasonably accessible to you.

"Having tried to use the search facility on the file downloaded I located two entries for Sunderland, one apparently for a council and one for a university

This is the information from one of those records

"Completed,Hybrid,IC-62928-V8H6,30/09/2020,2020/21,Q2,06-Sep,25/02/2021,2020/21,Q4,11-Feb,Local government,"Unitary Authority (London Borough, Mets and Councils in Scotland and Wales)",Art 15(3)(1) - Provide a copy of the personal data,Sunderland City Council,Informal Action

taken, Potential infringement, More work for org - unsatisfactory response to ind complaint"

Without headings the entries separated by commas are at best unclear and make little or no sense whatsoever."

Should you not wish to utilise Excel, I still consider that the information you have requested is reasonably accessible to you via the 'Notepad' program.

You have explained that you were able to use the search function in Notepad and you have also demonstrated that you are able to identify and extract a single entry from the Notepad file. Using the search function will allow you to locate any entries relating to South Tyneside and Sunderland NHS Trust in any of the published datasets.

For example, opening the data protection complaint dataset entitled 'Data protection complaints – Q1 2021/22' in Notepad allows me to search for the term 'South Tyneside'. This brings up one entry, under the data controller name 'South Tyneside NHS Foundation Trust' meaning that we received one complaint about South Tyneside and Sunderland NHS Trust between April and June 2021. The outcome for this complaint was 'No Further Action, No action, Insufficient information to proceed'. We provided a link to our 'Case Outcome Descriptions' document, which explains that where a decision is recorded as 'No further action', 'No action', 'Insufficient information to proceed' the case outcome is as follows:

'When we have not been provided with sufficient information to progress the complaint. Example: Where there is insufficient information for us to proceed with the complaint'

Whilst opening the datasets in Notepad does not provide headings for each part of an entry, cross referencing an entry with the 'Case Outcomes Descriptions' document would allow you to find the information you require, as the entries relate to the 'decisions' explained in that document. I consider this to be sufficient information to meet the scope of your information request.

I have carried out a test by opening the relevant datasets in Notepad, using the following search terms:

- Sunderland
- South Tyneside
- Sunderland NHS Trust

- South Tyneside NHS Trust
- South Tyneside and Sunderland NHS Trust
- South Tyneside and Sunderland NHS Foundation Trust

It took approximately 15 minutes to download two of our published data protection complaints datasets, find complaint cases related to South Tyneside and Sunderland NHS Trust using the above search terms, copy the entries into a separate Notepad document, search for the relevant UK GDPR articles referenced in each entry online and cross reference with our 'Case Outcomes Descriptions' document to see and record the outcome of each complaint.

As we have published 11 data protection complaints datasets, I envisage it would take no longer than one hour 30 minutes to search and extract the relevant data from all of them. Whilst this would of course mean some work on your part, I do not consider it to be onerous.

*"Your response has stated " **You can filter the data sets by 'submitted about account' and can find details of complaints concerning South Tyneside and Sunderland NHS Foundation Trust, along with details of the legislative reason for the complaint and the outcome.**" without specifying just how you believe this process can be undertaken or which software is required to be able to undertake it"*

Where we have explained that you could filter the datasets by 'submitted by account', this means selecting the filter option in Excel, via the 'Data' tab. An internet search produces a number of short guides on how to do this.

"I therefore believe that your section 21 response "This exempts information which is reasonably accessible to the applicant through means other than a request under the FOIA" is not applicable in that the information is not reasonably accessible to me as an applicant and I would suggest it is the same as offering the information in Japanese to someone who has no Japanese language skills.

Yes the information may be there and if I pay a Japanese speaker to interpret it for me or invest in software which will interpret it for me I could access it but I was under the possibly mistaken impression that the information is supposed to be in a format which the requestor can access without "Specialist requirements"?

Unless you publish the information in a word document or similar with a clear explanation as to what the terms mean and your apparent shorthand comments are explained these files are the next thing to useless"

I accept that the information is not laid out as simply in Notepad as it would be in Excel. I would therefore recommend utilising Excel to locate the relevant complaints. However, for the reasons explained above, I do not agree with your analogy. As the information is accessible via Notepad, I consider it reasonable for you to either use Excel or Notepad to access the information you have requested.

"My FOIA request of the 13 November specified

"Please tell me how many complaints against Sunderland and South Tyneside NHS Trust there have been since the DPA 2018 came into effect.

Please provide any breakdown regarding the nature of the complaint and any action undertaken in respect to them."

You have failed to supply a number and the allegedly published information presumably relies on the "Case Outcome Descriptions" shown here <https://ico.org.uk/media/about-the-ico/data-sets/4021296/case-outcome-descriptions-dp-complaints.pdf> which fail to disclose the actual action specified only that an unspecified request for further action may or may not have been made"

As explained above, the 'Case Outcome Descriptions' document explains the actions taken on a case. The information you can access via the datasets provide the nature of any given complaint by listing the relevant UK GDPR article. I believe the information available satisfies your request.

For the reasons outlined above, I do not uphold your internal review with regards to Section 21 of the FOIA.

We also withheld some information under Section 22 of the FOIA as it was due to be published at the time of our response. This information has now been published and can be accessed via the data protection complaints datasets page on our website.

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]

[Redacted]

This concludes our response to your request for an internal review.

Complaint procedure

If you are dissatisfied with the outcome of this review you can make a formal complaint with the ICO in its capacity as the regulator of the Freedom of Information Act 2000. Please follow the link below to submit your complaint: <https://ico.org.uk/make-a-complaint/>.

Yours sincerely

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