

22 January 2024

IC-281940-Z9C0

## Request

On 12 January 2024 you asked us:

*I would like to know for the calendar year 2023:*

- 1. How many reports have you received of "sexual misconduct" and/or "sexual harassment"?*
- 2. Please provide a breakdown, either by percentage or numerically, of how reports of sexual misconduct and/or sexual harassment compare with other recorded categories of misconduct, both financial and non-financial.*
- 3. How many reports of sexual misconduct or sexual harassment have resulted in cases being opened (broken down by percentage or numerically)?*
- 4. What number or percentage of allegations and cases were reported by individuals and what number by firms?*
- 5. What number of the reports led to an investigation, no action, or further action (i.e. regulatory sanction or other enforcement action) broken down by percentage or numerically?*

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

## Response

We are unable to confirm or deny the extent to which the requested information is held. 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. 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.

The ICO's role is to uphold information rights in the public interest. Although issues relating to sexual misconduct or harassment (or other forms of misconduct, as specified in point 2 of your request) may be mentioned by individuals or organisations we engage with as part of our regulatory work, we do not categorise our casework in this way or maintain a centralised list of these instances, nor can we electronically extract the relevant cases and/or correspondence from our systems.

Instead we would have to conduct manual searches to cover all of our engagement with individuals and organisations, in case any of these had raised the issues covered by your request. Even if we focused only on, for example, data protection complaints recorded in our case management system, this covers thousands of cases within one year, and each case contains multiple items that would need to be searched.

The matters we investigate can be complex and may involve multiple issues, including those mentioned in your request. We do not routinely use the terms 'sexual misconduct' or 'sexual harassment' (or 'financial' vs 'non-financial' misconduct) to categorise cases or reports made to us. This is because our work focuses on information rights legislation and therefore any information we may or may not hold about sexual misconduct/harassment (or other types of misconduct) will either relate to an information rights complaint, investigation or other matter in line with our functions as a regulator, or any instance in which a complaint of misconduct or harassment has been made against the ICO (e.g. by an ICO employee or a member of the public).

Even if the terms in your request are mentioned within a case file, complaint or other record, this does not necessarily mean that the information will constitute an instance being reported to the ICO (for example if the term is mentioned as an example or within the context of something else), nor is there any guarantee that any information we may hold would be sufficient to provide accurate responses to the points in your request. In each case detailed checks would be required.

To give an example of the work involved, we hold well over 10,000 complaint cases on our current case management system for 2023 alone. Even if it only took one minute per case to search 10,000 of those cases – and it is certain that some searches would take much longer than that – this would equate to over 160 hours' worth of searching. This estimate does not include all the other cases and records we would have to search, so the actual time would certainly exceed the 18 hours which would accrue a charge of £450 or less, triggering the provisions of section 12 of the FOIA.

## **Advice and assistance**

As mentioned, the ICO is the regulator for information rights legislation, and you can find out more about what we do and the legislation we regulate [here](#), as well as [the information we publish about our work](#).

We publish information about the complaints we receive, and investigations undertaken [here](#). Our [annual reports](#) also summarise the work that we do. As you can see, the information we hold focuses primarily on the legislation we regulate and our regulatory functions, rather than any other legislation or issues that may be specific to individual cases we deal with.

We publish responses to previous FOI requests [here](#), and you can search these using keywords. The search box on our website (in the top right corner of each webpage) can also be used to locate relevant research and information that we have published.

We have considered how you might be able to refine your request to bring it within the cost limit. We could, for example, consider a request for all instances of sexual harassment or misconduct reported by ICO employees, to the ICO, as this is less likely to require us to search large volumes of information. However, this will still require us to check through any complaints in detail (to check whether or not they meet the criteria), particularly if multiple different issues are involved. Please also note that exemptions may apply if we hold any complaints that fall within scope, for example, if any details held would enable individual complaints, complainants or complained about parties to be identified.

If you are interested in complaints made against the ICO by members of the public, these too are not readily searchable by topic, so any request about these would require us to manually search through all cases which have resulted in any kind of complaint or case review. Again this could cover thousands of cases, so if you wanted to make a request about reports made to the ICO by the public about sexual harassment/misconduct involving ICO staff, then we would need you to provide as much information as possible to help us to target our searches, for example a shorter timeframe or focusing only on complaints made in relation to a specific type of case or aspect of our regulatory work.

Even with the inclusion of additional search criteria, there is no guarantee that the request would fall within the cost limit. Furthermore, if we were able to locate information in scope and this included only a small number of cases, we would need to consider whether exemptions may apply, for example if the information would enable identification of individuals.

Similar issues would apply if we considered a refined request for reports made in relation to external organisations, or any request about 'financial' vs 'non-financial' misconduct. If we hold any information in scope, this would likely be incidental to an information rights matter. If your request requires us to search through large numbers of cases, it is likely to exceed the cost limit. Conversely if any searches result in a small number of results, exemptions may apply.

It is unclear how representative or helpful any results of refined searches would be, particularly given that we cannot guarantee the accuracy of the results provided when conducting manual searches, and our primary function is to regulate information rights legislation (which is reflected in the way we categorise our information, i.e. we do not use sexual misconduct/harassment, or 'financial' vs 'non-financial' misconduct as categories in our casework systems). 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, particularly given the issues regarding accuracy described.

This concludes our response to your request.

### **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](#) on our website.

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  
Strategic Planning and Transformation  
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)  
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