

19 March 2024

## **ICO Case Reference IC-290316-B7P3**

### **Request for information**

Request received 26 February 2024:

*"Please limit questions 1-3 to formal complaints."*

This is a refinement of a previous request:

*"In his official capacity as an elected councillor, James Giles sent an unsolicited email to c19,000 other elected UK councillors urging them to sign a letter taking a public stance in the Israel-hamas conflict.*

*In the email Cllr Giles stated "We will also be publishing the names of those who have been invited to sign but choose not to, in the interest of accountability."*

*My request please:*

- 1) How many complaints/contacts did the ICO receive regarding this unsolicited email? Please split this by qty of councillors (where possible), and everybody else.*
- 2) When did the ICO first and last contact Cllr Giles about this potential breach of data protection / sending unsolicited electronic communications?*
- 3) Please share the final report the ICO generated internally about this.*
- 4) At any point since November 2023 - in emails - has the ICO internally referred to James Giles as being "arrogant", "pompous", or "insufferable". If so, how many times for each adjective?"*

Your request has been handled under the Freedom of Information Act 2000 (the FOIA). This legislation provides public access to recorded information held by a public authority unless an appropriate exemption applies.

### **Our response**

We neither confirm nor deny that we hold information in scope of your request, pursuant to section 40 of the FOIA.

## **FOIA section 40**

Section 40(2) FOIA states:

*"Any information to which a request for information relates is also exempt information if—*

- (a) it constitutes personal data which does not fall within subsection (1),*
- and*
- (b) the first, second or third condition below is satisfied."*

Section 40(3A), which sets out one of the three conditions, states:

*"(3A) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act—*

- (a) would contravene any of the data protection principles"*

Finally, section 40(5B) states:

*"The duty to confirm or deny does not arise in relation to other information if or to the extent that any of the following applies—*

- (a) giving a member of the public the confirmation or denial that would have to be given to comply with section 1(1)(a)—*
  - (i) would (apart from this Act) contravene any of the data protection principles"*

You have requested information regarding complaints about a named individual. This information, if held, would constitute the personal data of that individual as it would relate to an identified natural person, and to the related activities and status of any complaints that involved them, if such complaints existed. Section 40(2) of FOIA exempts disclosure of the personal data of others, subject to conditions.

Section 40(3A)(a) details one of these conditions. In my view, this condition would be met in this case because disclosure of the information you have requested, if held at all, would break the first principle of data protection – that personal data is processed lawfully, fairly and in a transparent manner. Therefore, the information you have requested, if held, would be exempt from disclosure.

I also consider confirmation or denial of information being held would itself contravene the data protection principles because it would reveal personal data. Therefore, our response to your request is we can neither confirm nor deny that we hold the information you have requested. This should not be taken as any indication of whether we hold this information or not.

This concludes our response to your request.

### **Next steps**

You can ask us to review our response. Please let us know in writing within 40 working days if you want us to carry out a review.

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 [raise a complaint](#) 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.

### **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

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