

15 March 2024

Case reference: IC-290358-N5P9

We are now in a position to respond to your information request of 26 February.

Request

*"1. Please can you provide me with the ICOs policy on communicating/not communicating the outcomes of complaints (either linked to FOI, e.g. decision notices, or data protection) to data controllers/public authorities.
2. Do you hold any recorded information on decisions being made, within the ICO, to not communicate decision notice/outcomes of data protection complaints to data controllers/public authorities? If so, please provide the recorded information.
3. Please state how many complaints the ICO has received in the last 24 months from public authorities and data controllers about not being communicated the outcomes of complaints and or decision notices."*

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

Our response

We do not hold a policy document on this specific topic (question 1). We have provided information below on how we process FOI and data protection complaints that is relevant to your area of interest (see sections on FOI complaints and Data protection complaints).

We do not hold a record of internal decisions being made not to communicate the outcome of complaint cases to organisations (question 2). We have interpreted this request to relate to decisions being made at a complaints team level covering complaints across the department, rather than a decision made on an individual complaint by a case officer.

With regards to question 3, we have considered the cost of complying with your request and can confirm that it exceeds the 'appropriate limit' as set out in

section 12 of the FOIA. Further detail on this is provided below (see section on Section 12 FOIA).

FOI complaints

Under section 50(3)(b) of the FOIA, we are required to provide copies of any decision notices we issue to both the public authority and the complainant. We publish decision notices we issue on our website [here](#).

For complaints where we do not issue a decision notice, the communication with the public authority will depend on the nature of the complaint and the case officer's discretion.

For example, in complaints where the original FOI has not been responded to we will usually write to the public authority asking them to respond to the requester (complainant) within 10 working days. If the public authority then responds, we may send a courtesy acknowledgement confirming the case has been closed. However, not all case officers do this as there is a general assumption that, once the FOI response has been provided, the matter is considered closed.

You can find relevant information on FOI complaint handling in our [FOI/EIR casework service guide](#), which is available online. We provide a description of the case outcomes we use online [here](#).

The topic is also briefly discussed in our internal guidance on FOIA section 50(2)(c). This section of the legislation covers complaints that are frivolous or vexatious. An extract of the relevant wording is provided below.

"What should we tell the public authority?"

If we have already sent acceptance letters, you should notify the public authority that the complaint has been refused and that no further action will be required.

If we have not already contacted the public authority about the complaint, no contact is necessary."

Data protection complaints

Similar to FOI complaints, data protection law requires us to investigate a complaint to the extent we feel is appropriate and to inform the complainant of the outcome (Part 6, 165, 14.b of Data Protection Act 2018). We are not required in the legislation to communicate the case outcome to the data controller, but

this will be done in most cases where the data controller has not complied with their obligations and/or where we provide information on how they can improve their data protection practices.

Again, there may be instances where this is not done depending on the circumstances of the case and at the discretion of the case officer. You can find further information on how we handle data protection complaints on our website [here](#). We provide a description of the case outcomes we use online [here](#).

Section 12 FOIA

We have considered the cost of complying with your information request in question 3 and can confirm that it exceeds the 'appropriate limit' as set out in section 12 of the FOIA.

Section 12 of the FOIA makes clear that a public authority is not obliged to comply with an FOIA request if the authority estimates that the cost of complying with the request would exceed the 'appropriate limit'. The 'appropriate limit' for the ICO, as determined in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 is £450. We have determined that £450 would equate to 18 hours work.

You can find further guidance on section 12 FOIA on our website [here](#).

Whilst the information you have requested is most likely to sit within our casework management system, this system is not set up to easily provide us with the type of information you have requested. The only way we could identify the information you have asked for would be to manually review the details we hold on each FOI and data protection complaint case for the 24 month period specified.

We do not have a category field on our casework management system to identify complaints submitted to us by organisations about them not receiving the outcome of a complaint case. This means that we are not able to extract a report of these types of complaints. It is likely that any expression of dissatisfaction by an organisation about this issue would be held on the original complaint case and then be resolved by issuing the outcome to them from the case. A new complaint case, with a separate reference, is unlikely be set up.

We deal with a large number of complaints each year. We provide details of our casework in our annual reports. For example, in the 2022/23 financial year we received 5,479 FOIA and 33,753 data protection complaints. The time it would

take to search these individual cases for a 2 year period would far exceed the appropriate limit at section 12 of the FOIA.

You could consider narrowing the scope of your request to bring it within the appropriate limit, such as a search for a narrower time period or a particular organisation or sector. Please note that, such a refined request may not provide you with a meaningful picture of the type of information you are looking for.

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 sets out [your rights](#). Our [Retention and Disposal Policy](#) details how long we keep information.

Yours sincerely



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