

22 November 2023

IC-267521-Z5G6

Request

You asked us:

"Please may you provide a copy of the information submitted on your concerns tracker for Southend City Council since January 2023"

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

Our response

We have interpreted your request as being for information held on the ICO's FOIA concerns tracker regarding Southend-On-Sea City Council.

We neither confirm nor deny that we hold the information you have requested.

We can rely on section 31(1)(g) of the FOIA where disclosure:

"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)."

The information you have requested, if held, would fall into the purposes contained in subsection 31(2)(a) and 31(2)(c), which state:

"(a) the purpose of ascertaining whether any person has failed to comply with the law..."

(c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise ..."

Section 31(3) states that:

"The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice any of the matters mentioned in subsection (1)."

However, section 31 is not an absolute exemption, and we must carry out a public interest test to weigh whether the public interest test favours confirmation or denial.

In this case, the public interest factors in favour are:

- There is a public interest in transparency in complaints statistics regarding organisations; and
- there is a public interest in transparency in the way in which the ICO conducts its investigations.

The factors against are:

- the public interest in maintaining the ICO's ability to conduct the investigation into complaints as it thinks fit;
- as disclosure under the FOIA might alert individuals/organisations who are under investigation, there is a public interest in neither confirming nor denying what intelligence is held in our concerns tracker;
- there is a public interest in maintaining the integrity of other responses in which the ICO has neither confirmed nor denied that we hold the information requested; and
- the public interest in transparency is already met by the ICO's commitment to publishing the outcomes of notable investigations in the [action we've taken](#) section of our website, including [decision notices](#), [enforcement notices](#), [information notices and practice recommendations](#), as well as providing further information in our [complaints and concerns data sets](#).

Having considered these factors, we are satisfied that we can rely on section 31 to neither confirm nor deny that we hold the information that you have requested.

This concludes our response to your information 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 [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 set out your rights. Our retention schedule can be found [here](#).

Yours sincerely



Information Access Team
Strategic Planning and Transformation
Information Commissioner's Office, Wycliffe House, Water
Lane, Wilmslow, Cheshire SK9 5AF
ico.org.uk twitter.com/iconews
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