

28 May 2024

IC-303551-R2X1

Request

You asked us:

"For the year 2022/23, please provide the number of service complaints you received from individuals disputing your claims that decision notices were complied with."

We have handled your request under the Freedom of Information Act 2000 (the FOIA). We note that this request refines your previous request under IC-297086-M4K5, which itself refers to request [IC-295159-F5L5](#).

Our response

We confirm that we hold information in scope of your request. Based on the prior requests under IC-295159-F5L5 and IC-297086-M4K5, we interpreted your request as being for the number of FOIA cases where:

- The ICO ordered steps be taken as part of a decision notice;
- The complainant was of the view that the public authority had not subsequently complied with our orders;
- The complainant therefore raised a service complaint disputing the ICO's decision not to take further action.

We focused our search on our casework management system. We conducted an automated search for FOIA complaint cases completed in the financial year 2022/23, in which decision notices had been issued, and in which we had also logged service complaints. Following a manual search of this sub-set of cases, we can confirm that we hold information about two FOIA complaint cases completed in the year 2022/23 with service complaints that meet the above criteria.

This concludes our response to your request.

Further advice and assistance

It is important to note that service complaints are not the typical route by which complainants can dispute the outcome included in our decision notices. Our [service complaint policy](#) states that it does not cover complaints about the ICO's regulatory decisions. It is important to remember that a service complaint will only consider the way a complaint is handled. It cannot consider the outcome of the complaint, and cannot change the Commissioner's decision.

Notably, once the ICO has issued a decision notice on an FOIA complaint case, it is legally binding. Decision notices can only be reviewed and replaced by appeal to the First-tier Tribunal. This means that the ICO does not typically consider service complaints regarding decision notices. Complainants who are dissatisfied with a decision notice are therefore more likely to appeal to the First-tier Tribunal than to raise a service complaint with the ICO.

It may therefore be of interest to you that the First-tier Tribunal publishes information about Information Rights appeals regarding the ICO's decision notices in its register of current cases and its decisions database. You can find both of these directories at the following link:

<https://www.gov.uk/guidance/information-rights-appeal-against-the-commissioners-decision>

Where the ICO decides not to enforce a particular decision notice, if the complainant wishes to dispute this, they have the opportunity to apply to the Administrative Court for judicial review.

As outlined in our response under case reference [IC-295159-F5L5](#), where the ICO believes a particular decision notice has been complied with and so enforcement is unnecessary, but the complainant disputes this, we might also consider offering a service complaint.

You can find more information on our FOIA complaints process in our [FOIA/EIR Casework Service guide](#) on our website.

You can find more information on the Administrative Court, including a guide to judicial review and a searchable list of judgements, at the following link:

<https://www.judiciary.uk/courts-and-tribunals/high-court/administrative-court/>

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 twitter.com/iconews
Please consider the environment before printing this email
For information about what we do with personal data see our [privacy notice](#)