

25 June 2024

IC-304158-V4J8

## **Review of response to information request**

I write further to your email of 17 May 2024 in which you requested a review of the handling of your information request. I apologise that there has been a delay in my response.

You have questioned the application of section 31 to withhold the requested information. You argue that the prejudice test has not been met.

The purpose of an internal review is to look again at your request, at our response, and to check that any exemptions applied were appropriate. I am a Senior Information Access Officer in the Information Access Team and I have had no prior involvement in the handling of your request.

### **Review**

I agree that the legislation requires that prejudice "would or would be likely to" occur in order for the exemption to be engaged. As you have pointed out, the wording of our response suggests only that prejudice "may" occur, which is not sufficient.

With this in mind I have undertaken further discussions with the team that carried out the work about the prejudice of disclosure in this case.

Following those discussions I am of the view that prejudice would be likely to occur as a result of disclosure. I therefore do not uphold this review and the information remains withheld under section 31 of the FOIA.

Much of the work we carry out as a regulator relies on the voluntary engagement of organisations. This allows us to conduct enquiries with organisations without the need to use our formal regulatory powers, which take up more resources. It is important that we maintain good relationships with stakeholders in order to encourage the sharing of information.

In this case, we wrote to supermarkets with questions about their processing of personal data in relation to loyalty card schemes. They responded to our enquiries and we are currently considering these responses.

All of the organisations involved engaged with us openly and frankly. However, some made it clear that they considered their engagement with us to be treated in confidence.

While I acknowledge that your request was only for the names of those organisations, it is likely that disclosure would negatively impact on our relationship with them. This in turn would prejudice our ability to engage voluntarily with organisations on this and on future projects.

I therefore confirm that section 31 remains engaged. I appreciate that you may be disappointed with this outcome but I hope my explanation has been helpful.

This concludes our review.

### **Complaint procedure**

If you are dissatisfied with the outcome of this review you can make a formal complaint with the ICO in its capacity as the regulator of the Freedom of Information Act 2000. Please follow the link below to submit your complaint:

<https://ico.org.uk/make-a-complaint/>

Yours sincerely

**Jennifer Wilkes**  
Senior Information Access Officer

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