

17 July 2024

ICO Case Reference IC-315733-G8H1

Request for information

Request received 25 June 2024:

"It has been suggested to us that we contact you to find out if [a complainant] in fact provided you with any evidence when he made his complaint... If, however, he did provide evidence, we would be very interested to have access to this"

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 the information you have requested, in accordance with 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)(a) 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 held about a data protection complaint made to the ICO by a named individual. This information, if held, would constitute the personal data of that individual as it relates to an identified natural person. 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 our 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.

We also consider confirmation or denial would itself contravene the data protection principles because it would reveal personal data. Therefore, our response to your request is that 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 remain dissatisfied, you can [raise a complaint](#) to the ICO as regulator of the Freedom of Information Act. 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

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

Telephone: 0303 123 1113. Website: ico.org.uk

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