

26 July 2024

Case reference: IC-316417-D5B0

We are now in a position to respond to your information request of 28 June.

Request

You asked us for the following:

"... the business case for hiring a Director of Legal Service – Regulatory Enforcement,.... Part of the case is a lack of lawyers at the ICO which could impact your enforcement work. It states there were 5 vacancies at the time and two rounds of recruitment had brought forward 10 candidates. As this was August 2023, a lot could have happened since then and all roles could have been filled. Is it possible to share whether the roles have indeed been filled since?"

"Also, your jobs site has 0 vacancies at the moment, but I don't know whether this is related to purdah or there aren't any vacancies left."

"Finally, there is the secondment opportunity – is that almost constantly running and could these be the same roles as in the business case, or separate? It seems the vacancies in the business case are permanent roles."

"And another question on the same area..., is it possible to share the Target Operating Model plans mentioned in the business plan?"

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

Our response

We understand your request relates to a previous response on our disclosure log under reference [IC-308265-V6X2](#). Please find below information in response to your questions.

[1] "... the business case for hiring a Director of Legal Service – Regulatory Enforcement, attached. Part of the case is a lack of lawyers at the ICO which could impact your enforcement work. It states there were 5 vacancies at the time

and two rounds of recruitment had brought forward 10 candidates. As this was August 2023, a lot could have happened since then and all roles could have been filled. Is it possible to share whether the roles have indeed been filled since?

Four of the five vacancies in the Enforcement (Legal) directorate have since been filled.

[2] "Also, your jobs site has 0 vacancies at the moment, but I don't know whether this is related to purdah or there aren't any vacancies left."

Aside from the legal secondment opportunities mentioned below, we did not have any live vacancies at the time of your request. This was not related to the general election period.

[3] "Finally, there is the secondment opportunity – is that almost constantly running and could these be the same roles as in the business case, or separate? It seems the vacancies in the business case are permanent roles."

Please find below the link to our webpage for the legal secondments. This provides further detail including that they are 6 month secondments and non-permanent roles.

[Secondment opportunities for lawyers](#)

[4] "And another question on the same area..., is it possible to share the Target Operating Model plans mentioned in the business plan?"

Please find enclosed the information to which you are entitled. This is the Legal Service Target Operating Model (LS TOM). This document is from January 2023 and is in draft. Please note, the reference to January 2022 on the template is incorrect.

The LS TOM has 3 appendices: Appendix 1 Legal Service risk map, Appendix 2 Current Legal Service structure, Appendix 3 Proposed Legal Service structure. Appendix 1 is an excel spreadsheet and has been provided as PDFs in line with our procedures. The spreadsheet has 6 tabs.

The draft LS TOM was last updated in January 2023. Certain sections of the LS TOM are out of date and do not reflect the current position. ICO Legal Service intend to update and finalise the LS TOM in due course, and will consult staff and our trade unions on any changes as appropriate.

Some of the information in the LS TOM and appendices has been withheld and further details on this are provided below.

Section 40 FOIA

We have withheld some information under section 40(2) by virtue of section 40(3)(a)(i) which is the exemption under FOIA concerning personal information. You can read our [employee information disclosure policy](#) online.

Section 40(2) of the FOIA allows a public authority to withhold information from a response to a request when the information requested is personal data relating to someone other than the requestor, and its disclosure would contravene one of the data protection principles.

Section 31 FOIA

Some information has been withheld pursuant to 31(1)(g) of the FOIA. This includes the second and third tabs in the Appendix 1 Legal Service risk map spreadsheet.

This is an exemption relating to information which, if disclosed, would or would be likely to cause prejudice to our ability to regulate the laws we oversee.

This section states:

“Information... is exempt information if its disclosure under this Act would, or would be likely to, prejudice – (g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2)”

The purposes referred to in sections 31(2)(a) and (c) are:

- 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

The purposes at section 31(2)(a) and (c) apply when a regulator is determining whether or not there has been a breach of relevant legislation, and whether any further action is appropriate.

It is our view that the identified information in the LS TOM and appendices would, if it were disclosed, reveal information which may be used by subjects of

ICO enforcement action to mitigate or avoid such action and therefore would likely prejudice our ability to enforce the legislation we regulate.

The exemption at section 31 is not absolute, and we need to consider the public interest test by weighing up the factors for and against disclosure of the information we hold at this time, as well as any prejudice or harm which may be caused by disclosure.

We have considered the public interest test for and against disclosure. In this instance, the public interest factors in favour of disclosure are:

- Openness and transparency in the ICO's enforcement activities and how it operationalises its resources to meet its strategic objectives as regulator.

The public interest factors in favour of maintaining the exemption are:

- The public interest in not revealing specific detail about techniques and approaches involved in our enforcement work. Knowledge of this information could lead organisations to evade future regulatory action.
- The public interest in safeguarding the ICO's ability to enforce the legislation it regulates.

Having considered all of these factors we have taken the decision that the public interest in withholding this information outweighs the public interest in disclosing it, and the information you have asked for is exempt from disclosure under S31(1)(g) of the FOIA.

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](#) 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



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