

31 July 2024

IC-319525-S0B4

Request

On 11 July 2024 you requested 'evidence of the ICO's monitoring of London Borough of Waltham Forest'. We understand that this relates to their compliance with data protection, FOI and EIR legislation.

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

Response

Following reasonable searches and consultations with the relevant teams we can confirm that the ICO is not conducting any monitoring of this organisation other than to record any complaints or other casework relating to their compliance, as we would do for any other organisation.

We publish details about complaints and concerns about specific organisations in our [data sets](#), [annual reports](#) and [action taken](#) (including [decision notices](#)). This casework information is not retained indefinitely, but is held in accordance with [our retention policy](#).

In the case of FOI, our approach to monitoring is set out in the [FOI and Transparency Regulatory Manual](#), which states that:

'We use monitoring to identify where we can increase our level of support to public authorities through our approach to upstream regulation and where we should use our statutory powers due to consistently poor performance and failure to comply with the law'.

'We must capture concerns about the way that public authorities have dealt with information requests in a way that allows us to identify trends or patterns of behaviour. This will provide evidence that will allow us to consider regulatory

action on the basis of a public authorities overall performance. These concerns will be apparent to case officers as they process casework'.

Please note that we maintain a document internally for tracking concerns in relation to particular FOI complaint cases. As outlined in a similar previous request for information relating to this (see [IC-267521-Z5G6](#)) we are unable to confirm or deny whether or not specific complaints against individual public authorities are included on this, although any relevant outcomes or regulatory action will be confirmed on our website via the links above.

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 within the tracking document mentioned above, 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 the information you have requested is included in our FOI complaints tracking document.

Advice and assistance

Please note that if you were to request more detailed information about individual complaints or other cases, exemptions may apply, for example such cases may involve personal data belonging to the complainant or information relating to other third parties.

We regularly publish details about our casework as mentioned above, and where this information has not yet been published, it will likely be subject to the exemption at Section 22 of the FOIA if requested.

If you want to raise a complaint against a particular data controller or public authority, you can do so [here](#).

If you have concerns about the way in which the ICO has handled a particular complaint or issue please contact the member of staff who dealt with this for advice in the first instance and please also see the information on [this page](#).

This concludes our response to your 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](#) 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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