

04 October 2024

IC-331815-C2F9

Request

"How many complaints have you received about Liverpool City Councils handing of Freedom of Information Requests since 2020?"

Do authorities have to submit reports to you about the number of FoI's they deal with each year and how many they respond to in 20 working days, for example?

Do you hold data on how well or how poorly different local authorities are dealing with FoI's they receive?"

We received your request on 12 September 2024.

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

Our response

We hold some information in scope of your request.

- *"How many complaints have you received about Liverpool City Councils handing of Freedom of Information Requests since 2020?"*

We hold information about FOI complaints regarding Liverpool City Council from January 2021. Older cases and datasets have been deleted in line with our retention schedule.

Information for the period between January 2021 and April 2024 can be found on our [published datasets](#). You can use column O to filter the results to complaints about Liverpool City Council.

As this information is available to you it is technically withheld from our response, although we have provided a link to the information. Section 21 of the FOIA exempts information that is reasonably accessible to you.

Information for the period between April 2024 and September 2024 will be published in an equivalent dataset in due course. This information is therefore withheld under section 22 of the FOIA. We provide further information about our

application of this exemption in the 'Information Withheld' section further down in our response.

- *Do authorities have to submit reports to you about the number of FoI's they deal with each year and how many they respond to in 20 working days, for example?*

We have interpreted this part of your request to be for whether authorities are routinely required to submit reports to us about FOI compliance. This is not the case, so there is no information held.

As advice and assistance we can tell you that central government agencies report their compliance statistics to the Cabinet Office, which are published [here](#).

We may ask an authority for up to date statistics while handling a complaint. We also undertake monitoring as part of our enforcement activity where we have concerns about an authority's compliance. This is outlined in our [Regulatory Manual](#). You can find information about [regulatory action](#) we have taken against public authorities on our website. This includes cases where we have asked authorities to provide us with statistics about their compliance.

- *Do you hold data on how well or how poorly different local authorities are dealing with FoI's they receive?"*

We do hold information in scope of this part of your request.

Some of this information has been published on our [website](#). This information is withheld under section 21, which exempts information that is reasonably accessible.

We also hold some internal information about monitoring individual public authorities, which includes local authorities. This information is withheld under section 31 of the FOIA, which is explained in further detail below.

Information withheld – FOIA section 22

Section 22 of the Act states that information is exempt from disclosure in response to an information request if:

"(a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),

*(b) the information was already held with a view to such publication at the time when the request for information was made, and
(c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a)."*

In this case we find that the exemption at section 22 of the FOIA applies to the information we hold for the period between April and September 2024 as this information will be published by us in due course.

The exemption at section 22 is qualified by the public interest test, meaning that the information should be disclosed if the public interest in the maintenance of the exemption does not outweigh the public interest in disclosure.

In this case the public interest factors in disclosing the information are:

- Providing information regarding a public authority about whom complaints have been made regarding their compliance with the FOIA.
- Encouraging openness and transparency about our casework.

The factors in withholding the information are:

- The ICO has a history of publishing this information on a regular basis and has committed to publishing relevant datasets which will include the relevant information in the near future (and at that point the information will be in the public domain anyway).
- Earlier disclosure is not necessary to satisfy any pressing public interest at the present time.
- Controlling the release of this information helps us to ensure it is fair to those who have an interest in the information. Premature release may be seen as unfair, and discourage further engagement by the organisation involved.
- To prepare this information for disclosure earlier than our intended date of publication in response to individual requests we receive would not be an efficient use of resources when we intend to publish this information in due course anyway.

Having considered the public interest arguments, we have decided to withhold this information in reference to section 22 of FOIA.

Information withheld – FOIA section 31

Internal information about monitoring individual local authorities is withheld under section 31 of the FOIA.

Section 31(1)(g) exempts information if its 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),"

With the relevant subsections to this request being 2(a) and 2(c):

"(a) the purpose of ascertaining whether any person has failed to comply with the law" and

"(c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise ..."

These purposes apply in relation to monitoring local authorities. This is because the information consists of intelligence we gather about public authorities' compliance with the FOIA.

The exemption at section 31 is not absolute, and we must therefore consider the prejudice or harm which may be caused by disclosure of the information you have sought, as well as applying a public interest test by weighing up the factors in favour of disclosure against those in favour of maintaining the exemption.

The information includes open investigations and intelligence, the disclosure of which would prejudice our ability to enforce the FOIA.

This is because disclosure of such monitoring would discourage discussions between us and the public authorities concerned. Disclosure would also be likely to jeopardise our ability to obtain information either relating to monitoring now or in the future.

With this in mind, we have then considered the public interest test for and against disclosure.

In this case the public interest factors in disclosing the information are –

- increased transparency in the way we monitor authorities' compliance with

- the FOIA;
- increased transparency in the compliance of local authorities that we are currently monitoring.

The factors in withholding the information are –

- the public interest in maintaining the ICO's ability to conduct investigations and undertake monitoring of public authorities in circumstances where we have identified an issue with compliance;
- the public interest in public authorities being afforded the space to engage with us in open dialogue about their compliance, without fear that this information will be prematurely released into the public domain;
- when we do undertake formal regulatory action against a public authority this information is published on our website.

Having considered all of these factors we have taken the decision that the public interest in withholding the information outweighs the public interest in disclosing council on the concerns tracker.

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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