

25 September 2024

IC-329349-J9Y8

Request

On 2 September 2024 you made the following request to the ICO:

- 1) Which role or department within the ICO --aside from the Commissioner themselves-- has overall responsibility for the Publication-Scheme, i.e. for modelling, design, review, + approval? +*
- 2) Which role(s) have the authority to make decisions on whether a specific public-authority has complied with the Publication-Scheme that applies to them?*
- 3) What is the process by which the ICO reviews the Publication-Scheme(s)?*
- 4) What is the process by which the ICO reviews whether a specific public-authority has complied with the relevant Publication-Scheme? + How often does this happen?*

Can you, under the FOI-Act, please provide me with the jobtitles of these roles (for points 1 + 2), + with their contact email-address, i.e. an email-address by which one can contact them? +

Can you, under the FOI-Act, please provide me with the information you have in relation to points 3 + 4?

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

Response

We hold information that falls within scope of your request.

In relation to point 1, we have published our scheme of delegations [here](#). As you will see, page 19 confirms that level G2 has overall responsibility for the model publication scheme, and the correspondending role title is Director of FOI and Transparency.

In relation to point 2, our [FOI and Transparency Regulatory Manual](#) states that:

"To support our new more strategic approach, however, a senior oversight group looks holistically at the evidence we are seeing across the public sector about compliance with information rights law. This group meets regularly and includes the managers, Principal Advisers, the Upstream Regulation Manager, the Head of Casework and the Director of FOI and Transparency. Other attendees are invited as necessary, including from the organisation more widely. The group is chaired by the Upstream Regulation Manager who, being a step removed from casework, can bring independent challenge. Discussion is led by the managers and Principal Advisers, who will propose regulatory action based on the latest intelligence from their sectors and the broader evidence available. This informs our thinking on what action may be needed."

Technically the information requested as part of points 1 and 2 is exempt in accordance with Section 21 of the FOIA, as it is already available to you, however we have provided the relevant links for your reference.

In relation to point 3, the model publication scheme is reviewed in the same way that we review other FOI guidance. We do not hold a information about any processes designed specifically to review the model publication scheme.

To summarise, each piece of guidance has a nominal review period of three years, subject to the capacity of the FOI and Transparency Team. After a piece of guidance is identified as due for review, a member of staff is assigned to conduct this review. The FOI Principle Policy Adviser or Policy Manager and the reviewer identify any review considerations such as known tribunal decisions or consultees before reviewing and, where relevant, re-drafting the existing guidance. This may involve input from internal and external consultations, as well as legal advice and editorial review by the Communications Team, and any changes are signed off by the FOI Principal Policy Adviser and a manager within the team before being published on the website (with a change note). Those consulted may also be updated as part of this process.

In relation to point four, beyond what is set out in the regulatory manual (at 2 above) there is no documented process for how the ICO reviews whether a specific public-authority has complied with the relevant Publication Scheme and no set timeframe for how often this will happen. We published a report in February 2023 as part of our blog [New FOI resources to support public authorities](#) which states that:

"We are also working on encouraging proactive publication of information that is in the public interest and is safe to disclose. Our recent

[report](#) contains an analysis of a snapshot of compliance of 200 public authorities, as well as recommendations to help support public bodies comply with this area of the law. We will use this report alongside the results of external research we are procuring, and output from the ICIC Transparency by Design Working Group, to develop future work on proactive publication."

In relation to your request for job titles and email addresses, the former have been provided as part of points 1 and 2 above, and the latter have been withheld in accordance with section 31(1)(g) of the FOIA. We can do this when the disclosure of information "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)."

In this case the relevant purposes contained in subsection 31(2) are 31(2)(a) and 31(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."

We already publish details about how the public can contact us if they have concerns, complaints or queries about our work, and these are publicly available via [our website](#). Members of the public can telephone our helpline, use our live chat function or write to us by post, as well as use [our online complaint forms](#) to raise concerns about organisations. If you have concerns or comments about the ICO, you can find out more about how to raise these [here](#).

Disclosing individual staff email addresses in relation to this matter would likely lead to an increased volume of correspondence being directed towards these staff, who do not routinely deal with general complaints or enquiries from the public as part of their role. This could be detrimental to the efficient processing of said complaints or enquiries, divert valuable time and resources away from these members of staff and their respective areas of work, and prejudice our ability to perform our regulatory functions in doing so. Disclosure would also leave these staff members vulnerable to an increased volume of irrelevant correspondence which it would take us time to process, as well as increased spam, phishing or other cyber-attacks.

The exemption at section 31(1)(g) is not absolute. When considering whether to apply it in response to a request for information, there is a 'public interest test'. We have to consider whether the public interest favours withholding or disclosing the information.

In this case the public interest factor in favour of disclosing the information is:

- Increased transparency in the way in which the ICO conducts its operations.

The public interest factors in maintaining the exemption are as follows:

- There is public interest in staff being able to work effectively to discharge our regulatory functions, which would be compromised by receiving correspondence that would be more productively handled via more appropriate channels;
- There is public interest in correspondence from the public being handled efficiently (to enable the ICO to work effectively as a regulator), which would be compromised if this was routinely sent to staff who do not deal with this as part of their role, and would need to identify and redirect this to more appropriate channels; and
- The public interest in transparency more broadly is met by the public provision of other more appropriate means of contacting us.

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.

In relation to points 3 and 4, we do not hold any relevant documentation that refers to the process of reviewing the model publication scheme specifically, or the compliance of public authorities in relation to this, besides the resources already mentioned.

Advice and assistance

We can consider requests for information about our guidance review processes more broadly, for example, for templates, checklists, summaries etc. If requesting anything in relation to this it would be helpful if you could specify what legislation (or part of the legislation) you are interested in so that we can target our searches effectively.

You can also see the information that the ICO publishes in line with the model publication scheme [here](#).

You can search our responses to previous requests on similar topics [here](#).

You can access historic versions of the publication scheme and other guidance on [The National Archives website](#), which holds archived versions of the ICO website.

Details about different ways to contact us are provided above, in case you have any further queries or concerns.

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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