

16 October 2024

**IC-337068-F8W1**

**Request**

You asked us:

*"I am writing to request information under the Freedom of Information Act 2000 regarding complaints made to the Information Commissioner's Office (ICO) concerning universities or other higher education institutions (HEIs). Specifically, I would like to request details on for the past 3 years:*

- 1. Complaints made to the ICO relating to the handling of Freedom of Information Act (FOIA) requests by universities and HEIs.*
- 2. Complaints made to the ICO regarding the handling of Data Subject Requests (DSRs) under data protection legislation by universities and HEIs.*
- 3. Complaints made to the ICO regarding data breaches reported by universities and HEIs.*
- 4. General complaints made to the ICO concerning data protection issues by universities and HEIs.*

*For each of the above categories, I would like to know:*

- The total number of complaints made by University/HEI.*
- The details of whether the ICO upheld or did not uphold each complaint.*

*If possible, I would also appreciate any contextual information that may help in understanding the nature of the complaints (e.g., broad categories of issues raised, such as delays in responding to FOIA requests, failure to provide requested information, or mishandling of personal data)."*

We received your request on 8 October.

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

## **Our response**

We do hold information within the scope of your request.

You can find data sets containing the details of the data protection complaints that we've handled over the past two years on our website [here](#). If you filter the column titled 'subsector' you can find complaints against organisations categorised as 'higher education'. The data sets include details such as the pertinent dates, the name of the data controller complained about, the legislative reason for the complaint (such as Article 15 for complaints about SARs) and the outcome of the complaint.

This information is technically exempt under s.21 FOIA as it is available on our website.

We are unable to provide data going back further than two years as we no longer hold it because older cases are deleted in line with our retention schedule.

The data on our website is currently available for the period up to the end of June 2024. This is because we publish details of cases closed in each quarter during the following quarter, and we are currently preparing the data sets for July-September for publication by the end of December. The information that you requested that hasn't yet been published is therefore withheld under s.22 FOIA as it is intended for future publication.

## **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).”

As we have done for the previous quarters, we intend to publish data sets for July-September within the current quarter and the work is underway for this, and then to publish the subsequent quarter according to the same schedule and so on.

Due to the volumes of casework that we process and the rigorous checks we need to carry out in order to ensure that personal data and other sensitive information is not disclosed inappropriately, the process for publication of datasets is not one that can expedite more quickly than we are.

Our commitment to publishing this data on regular basis is clear from the speed and consistency with which we have published this information over the past two years. As a result, we find that it is reasonable to withhold it in response to your request pursuant to section 22 of the FOIA, as it is 'being held for future publication'.

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:

- Promoting transparency by providing up to date information on the ICO's complaints handling work in response to requests.

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 data sets in the near future (and at that point the information will be in the public domain anyway).
- Under the current schedule, information about closed cases is being published within the following financial quarter so this means that data is being made available while it is still recent and relevant and as quickly as it can be without compromising information security.
- The current process being employed is the most efficient way to make this data available without overly burdening resources and it is in the public interest that the ICO deploys its resources to provide services in the most efficient way.

- The rigorous checks that we undertake in order to publish the data sets are within the public interest as they ensure the efficacy of the data and avoid the potential for a data breach. Speeding the process along to the detriment of this would not be in the public interest.
- 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.

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

### **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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