

11 November 2024

**Ref: IC-338413-X1W5**

## **Request**

You asked us:

"I seek information on the ICO's policies, procedures, and support mechanisms for vulnerable individuals who may be hesitant or emotionally unprepared to report data breaches. Vulnerable individuals often face additional challenges, and I wish to understand how the ICO accommodates their needs:

### 1. Reasonable Adjustments (Equality Act 2010)

- How does the ICO ensure compliance with the Equality Act by providing reasonable adjustments for vulnerable individuals, such as those with mental health conditions, trauma, or disabilities?
- How does the ICO assess the need for adjustments? What adjustments are available for those with conditions like anxiety or ADHD during the complaints process?

### 2. Support for Raising Complaints

- What protocols exist for individuals hesitant or fearful of raising complaints, especially survivors of trauma or those with learning disabilities?
- How does the ICO support individuals with delicate physical or mental health conditions who may struggle with the formal process?
- How does the ICO direct these individuals to advocacy services?

### 3. Fear of Repercussions

- How does the ICO address concerns of retaliation when whistle-blower protections don't apply?

- What measures are in place to prevent retraumatisation during the complaints process?

#### 4. Protection Against Negative Bias

- What steps does the ICO take to protect individuals from fear that their mental health may be used to discredit their complaints?

#### 5. Role of Advocates

- Does the ICO recognise the need for advocates to assist vulnerable individuals, and is there a formal policy for involving them?
- How is the advocate's role respected in ICO communications?

#### 6. ICO Staff Training

- What training do ICO staff receive to recognise and address the needs of vulnerable individuals?

#### 7. Delays and Sensitivity

- How does the ICO accommodate reporting delays due to emotional or psychological challenges?
- What efforts have been made to improve guidance for vulnerable individuals on their GDPR rights?

#### 8. Data on Reasonable Adjustments

- Does the ICO collect data on the number of requests for reasonable adjustments, particularly from vulnerable individuals?
- How many such requests have been made in the past three years?

#### 9. Obstructive Data Controllers

- What provisions exist for supporting vulnerable individuals when data controllers fail to address their concerns?

#### 10. Policy Review and Updates

- Has the ICO reviewed its reasonable adjustments policy in the last three years, and what updates have been made?

#### 11. Communication with Vulnerable Individuals

- How does the ICO ensure communication with vulnerable individuals is clear, accessible, and responsive to their needs?
- How does the ICO manage repeated contact from individuals needing further guidance or clarification?"

We received your request on 14 October.

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

### **Our response**

We do hold some information within the scope of your request. We have responded to your questions using your numbering below.

1. This is covered by our [reasonable adjustments policy](#) in conjunction with our Service Adjustment Operating Procedure (attached).

We do not have lists of permitted adjustments in general or according to condition, instead staff follow the general principles set out in the policies highlighted to determine what adjustments can be agreed.

2. We do not have specific policies etc which cover this, staff follow the general principles set out in our [service standards](#) and [codes of conduct](#) to support each member of the public to use our services in the way that best suits their needs.

A collection of resources to assist people who may be vulnerable in accessing the ICO's services and addressing concerns about their information rights has recently been made available on the ICO's website [here](#).

Additionally, resources have been made available to Data Controllers on the ICO's website [here](#) to help them to understand the effect that a data breach can have on vulnerable people in particular and how to best support them in the circumstances of a breach. This is supported by the ICO's 'ripple effect' campaign, the resources for which are available on the same page.

3. As above

4. As above
5. Our [reasonable adjustments policy](#) refers to circumstances in which we would facilitate communicating with individuals through a chosen advocate. We do not have any specific policies relating to this.
6. We attach a copy of the transcript of an e-learning training module available to staff on disability awareness.

We also attach the slides and transcript from an online staff event titled 'Outside In: Engaging with vulnerable customers' which focused on how ICO staff can best support people with disabilities effected by a data breach, through the context of people living with HIV. This was a one-off event which staff could attend virtually, with the recording, slides and transcript subsequently available on our intranet for staff to access on demand.

The transcript was generated automatically through Microsoft Teams during the event and may contain errors. The video featuring Tresca played at 12 minutes and 52 seconds is available on YouTube. The question-and-answer section of the event was not recorded, and no transcript was kept, to allow staff a 'safe space' to ask questions on this topic.

Some personal data of a third party has been redacted from the slides and transcript, further information about this is provided below.

7. As for question 2.
8. We do not retain data on the number of requests we have received for reasonable adjustments and do not categorise these according to whether the person requesting the adjustment is considered vulnerable.

We do keep a central record of reasonable adjustments currently in place and can advise that currently 202 people have a reasonable adjustment recorded on this list. In some cases, a member of staff may informally agree a reasonable adjustment for an individual in relation to a specific matter that they are dealing with, and this would not be recorded.

9. As for question 2.

10. This policy was last reviewed in 2021
11. We attach a copy of our Style Guide, which contains guidelines for staff to follow to ensure that firstly all written correspondence is clear and concise and secondly that it is accessible to all audiences who need to access it, which would include vulnerable people.

## **FOIA section 40(2)**

You will see that some of the third-party personal data has been redacted in our response.

Section 40(2) of the FOIA exempts information if it is personal data belonging to an individual other than the requester and it satisfies one of the conditions listed in the legislation.

We find that the condition at section 40(3A)(a) applies in this instance: that disclosure would breach one of the data protection principles. The principles are outlined in the General Data Protection Regulation (GDPR) with the relevant principle on this occasion being the first principle as provided by Article 5(1): that personal data shall be processed lawfully, fairly and in a transparent manner.

We do not consider that disclosing this information into the public domain is necessary or justified. There is no strong legitimate interest that would override the prejudice to the rights and freedoms of the relevant data subjects. We have therefore taken the decision that disclosing this information would be unlawful, triggering the exemption at section 40(2) of the FOIA.

This concludes our response.

## **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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