

08 November 2024

## **ICO Case Reference IC-339358-V2C7**

### **Request for information**

Request received 18 October 2024, regarding:

"complaints to the ICO about nuisance calls from 'Housing Disrepair' or similar ... Could you let me know what action you are taking against them?"

Your request has been handled under the Freedom of Information Act 2000 (the FOIA). This legislation provides public access to recorded information held by a public authority unless an appropriate exemption applies.

### **Our response**

We hold some information in scope of your request. We can confirm that we are making inquiries regarding complaints we have received about Housing Disrepair. All other information regarding our investigation is exempt from disclosure under section 31(1)(g) of the FOIA. Further explanation of this is provided below.

### **FOIA section 31**

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)."

In this case the relevant purposes contained in subsection 31(2) are 31(2)(a) and 31(2)(c) which state:

“(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 ...”

Section 31 is not an absolute exemption, and we must consider the prejudice or harm which may be caused by disclosure. We also have to carry out a public interest test to weigh up the factors in favour of disclosure and those against.

When inquiries are ongoing, releasing information about the process could prejudice the ICO's ability to conduct its investigations in an appropriate manner. Disclosure at this stage would discourage interactions between the ICO and organisations involved, and may damage our ability to conduct and conclude the investigation fairly and proportionately.

Disclosure could also jeopardise the ICO's ability to obtain information relating to this matter or others in the future as it is likely to result in other parties being reluctant to engage with the ICO. Furthermore, any information released at this stage could be misinterpreted, which in turn could distract from the investigation process.

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 in which organisations respond to the ICO's enquiries; and
- increased transparency in the way in which the ICO conducts its investigations.

The public interest factors in withholding the information are:

- the public interest in maintaining organisations' trust and confidence that their replies to the ICO's enquiries will be afforded an appropriate level of confidentiality;
- the public interest in organisations being open and honest in their

correspondence with the ICO without fear that their comments will be made public prematurely or, as appropriate, at all; and

- the public interest in maintaining the ICO's ability to conduct the investigation into complaints as it thinks fit.

Having considered these factors, we are satisfied that it is appropriate to withhold the information.

### **Further information**

Each month the ICO receives thousands of reports from the public regarding nuisance calls, messages and emails. These reports cannot be individually investigated or verified, but can be used for gathering intelligence about the practices of different businesses. We must also consider that the organisation named in such unsolicited calls and communications may be different from that organisation actually sending the communications.

We publish statistics about [Nuisance calls and messages](#) on our website, along with guidance on what you can do about [Spam emails](#). We also encourage individuals to register with the [Telephone Preference Service](#) if they have not already done so.

This concludes our response to your request.

### **Next steps**

You can ask us to review our response. Please let us know in writing within 40 working days if you want us to carry out a review.

You can read a copy of our full [review procedure](#) on our website.

If we perform a review but you remain dissatisfied, you can [raise a complaint](#) to the ICO as regulator of the Freedom of Information Act. This complaint will be handled just like a complaint made to the ICO about any other public authority.

## **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

### **Information Access Team**

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

Telephone: 0303 123 1113. Website: [ico.org.uk](https://ico.org.uk)

For information about what we do with personal data, please see our [privacy notice](#)