

21 November 2024

Case Reference IC-341780-NOM8

Request

I am carrying out some research on the ICOs powers of enforcement and publication and wondered if you could please advise on the following

1 Whether confidential information regarding companies fined in connection with breaches of data protection laws would be published by the ICO in their fine notice or case summary?

2 How the ICO decides what should be redacted from fine notices published?

3 Is there any legislation to govern how the ICO handles confidential information collected during investigations?"

We received your request on 29 October 2024.

Your request has been handled under the Freedom of Information Act 2000 (the FOIA).

Our response

We do hold information within the scope of your request.

In response to questions 1 and 2 our [Communicating our Regulatory and Enforcement Activity Policy](#) outlines the guidance we use when publishing details of our regulatory action, including the consideration of confidentiality and redactions.

Examples of the type of information we publish in relation to our enforcement work and fines, can be found on our website on the following link: [Enforcement action](#)

In response to question 3, our Communicating our Regulatory and Enforcement Activity Policy explains that the ICO must comply with the statutory prohibition against sharing certain information we receive or obtain, in the course of our duties, about those we regulate. This prohibition can be found in section 132 of the Data Protection Act 2018.

Details of s.132 can be found on the following link: [Data Protection Act 2018](#)

As the above information is publicly available, it is technically withheld from this response in reliance on the exemption at section 21 of the FOIA, further details of which can be found below.

In the early part of 2025, we plan to consult on new procedural guidance which will replace the statutory guidance currently set out in the [Regulatory Action Policy](#) and incorporate other statutory guidance about the regulatory enforcement powers of the ICO. As this information is intended for future publication, we are withholding it in reliance on the exemption at section 22 of the FOIA, further details of which can be found below.

Information withheld

FOIA section 21

This exempts information which is reasonably accessible through means other than a request under the FOIA. Section 21 states that we do not need to provide a copy of information when you already have access to it. However, we have provided the links above for your convenience.

Section 21 is an absolute exemption, which means it is not necessary for us to consider a public interest test.

FOIA section 22

Information is exempt from disclosure under section 22 of the FOIA if it is to be published at a future date. This is not an absolute exemption, which means we must consider the public interest in withholding the information.

The factors in favour of disclosing the information are:

- To promote openness and transparency by providing details of our proposed new procedural guidance for our regulatory work.

The factors in favour of withholding the information are:

- The ICO has a history of publishing information about our approach to our regulatory work, as detailed in the Communicating our Regulatory and Enforcement Activity Policy and our Regulatory Action Policy. We are committed to publishing this information for public consultation in the early part of 2025.

- To consider and prepare the procedural guidance for disclosure earlier than our intended date of publication in response to individual requests we receive would involve the duplication of work and would not be an efficient use of our resources, when we have committed to publish this information in the near future.
- 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.

Having considered the public interest arguments, we are satisfied that it is appropriate to withhold this information.

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 [here](#).

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](#) via 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

Information Access Team
Strategic Planning and Transformation
Information Commissioner's Office, Wycliffe House, Water
Lane, Wilmslow, Cheshire SK9 5AF
ico.org.uk twitter.com/iconews
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