

04 December 2024

ICO Case Reference IC-343033-J1V7

Request for information

Request received 7 November 2024:

"I am writing to request the following information relating to the ICO report on AI in hiring :

- A copy of each of the 42 advisory notes issued by the ICO as mentioned in the AI in recruitment outcomes report"

We understand you to be referring to the 42 advisory notes mentioned on page 12 of the [AI in Recruitment Outcomes Report](#) on the ICO website.

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 do hold information in scope of your request. Please find attached the 42 advisory notes. There are some duplicates as we gave the same advisory note to different organisations. We have redacted information that would identify any of the organisations audited. Further information is provided below.

FOIA section 31

We have redacted information that would identify the organisations audited for this report as it is exempt from disclosure under section 31(1)(g) of the FOIA. 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...

(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.

Disclosing information relating to organisations who participate in a voluntary audit by the ICO may jeopardise our ability to conduct similar work in the future. This could harm our work in important areas such as AI, or harm any future engagement we wish to have with these organisations. It is also likely to result in other organisations who would otherwise be open and candid with us, being reluctant to engage with the ICO in future.

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 data practices of the specific organisations audited; and
- increased transparency in the way in which the ICO conducts its audits.

The public interest factors in withholding the information are:

- in maintaining organisations’ trust and confidence that their replies to the ICO’s enquiries will be afforded an appropriate level of confidentiality;
- 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
- in maintaining the ICO’s ability to conduct audits as it thinks fit.

Furthermore, we consider that the public interest in these audits has been largely satisfied by the publication of the audit report and the redacted version of the advisory notes. The ICO has a demonstrable history of sharing information about our work when appropriate, in line with our [Communicating our Regulatory and Enforcement Activity Policy](#).

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

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

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