

18 December 2024

Case reference: IC-346880-N9L0

We are now in a position to respond to your information request of 6 December.

Request

On 28 November you asked the following.

"The extent authorised by the Commissioner pursuant to Section 206(3) DPA must be documented by your office. Indeed, it should be a case officer's "Mission Statement". Please will you provide me with a copy of this document. I need to know whether case officers are entitled to subjectively interpret the law or objectively provide the opinion of the Commissioner through training and knowledgebases."

On 5 December we asked for clarification on the information you were seeking. You kindly provided the following information on 6 December.

"I copied the page number instead of the Section number. I should have referenced Schedule 12 starting on page 206. I've provided the background and corrected the legislation to help clarify exactly what information I am seeking.

The ICO operates as a Corporation sole and as a regulator. Section 165 DPA relates to complaints by data subjects and Section 165(4) states:

'(4) If the Commissioner receives a complaint under subsection (2), the Commissioner must—

- (a) take appropriate steps to respond to the complaint,
- (b) inform the complainant of the outcome of the complaint,
- (c) inform the complainant of the rights under section 166, and
- (d) if asked to do so by the complainant, provide the complainant with further information about how to pursue the complaint'.

Section 165(5) provides clarification on Section 4(a):

'(5) The reference in subsection (4)(a) to taking appropriate steps in response to a complaint includes—

- (a) investigating the subject matter of the complaint, to the extent appropriate'.

Pursuant to Schedule 12(6)(3) DPA, the Commissioner has chosen to authorise his function to investigate complaints from the public to the extent appropriate to his case officers:

A function of the Commissioner may, to the extent authorised by the Commissioner, be carried out by any of the Commissioner's officers or staff.

To recap, pursuant to Schedule 12(6)(3) DPA, the Commissioner has delegated the function that requires him to investigate complaints to the extent appropriate, to his case officers. What I need to understand is to what extent this function has been delegated.

For example when investigating complaints from the public, has the Commissioner authorised his case officers to subjectively interpret the law to determine whether a breach of the law has occurred. Or, has he authorised his case officers to act as his proxy and objectively apply his opinion to each case investigated to determine whether a breach has occurred?

I need to understand the nature of the delegated authority...

...what I'm seeking is a high-level policy document which captures the decision to delegate the function to case officers and to what the extent the function has been delegated."

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

Our response

We understand your request to be for a 'policy document which captures the decision to delegate the function to case officers and to what the extent the function has been delegated' in regards to the investigation of data protection complaints to the ICO as regulator.

Paragraph 6(3) of schedule 12 to the Data Protection Act 2018 (DPA) states that, 'A function of the Commissioner may, to the extent authorised by the Commissioner, be carried out by any of the Commissioner's officers or staff'. The full scheme of delegations can be found on our website [here](#). This sets out how the Commissioner's functions are delegated throughout the organisation. The delegations are to specific grades and job roles rather than to individual staff.

We do not hold any other policy documents within scope of your request.

It may help to explain that case officers have discretion on how they handle and exercise judgement on complaint cases, in line with relevant legislation and our [policies and procedures](#). A case review can be undertaken for complainants who are dissatisfied with the regulatory decision made on a complaint case. This is looked at by a separate member of staff. Further detail can be found in [Our service standards](#).

We have published the training materials for our Public Advice and Data Protection Complaints Service (PADPCS) staff on our disclosure log [IC-236327-C7Q7](#). Our staff training videos are available online [here](#).

The job description and person specification for Case Officer and Lead Case Officer roles in PADPCS can also be found on our disclosure log [IC-209588-W3V6](#).

The published information within scope of your request is technically withheld under section 21 of the FOIA, which explains that we are not required to provide information in response to a request if it is already reasonably accessible to you from another source.

Advice and assistance

You may find the following links on our website useful in your area of interest.

[Outcomes of complaints](#)

[ICO25 – Our regulatory approach](#)

[Court of Appeal rules ICO acted lawfully in SAR complaint litigation](#)

This concludes our response to your request. We hope you found this information helpful.

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 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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