

24 December 2024

ICO Case Reference IC-348533-K4P6

Request for information

Request received 4 December 2024:

"I want to know what the ICO is doing to investigate and prosecute senior civil servants who have blatantly breached freedom of information legislation by destroying information that would be disclosable under FOI.

[Covid scandal mandarin retired on £1.5 million pension](#)

If the ICO hasn't started to investigate or prosecute, then when is it planning to, and if its not planning, then why not?"

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 not hold any information in scope of your request. We have not investigated or prosecuted any senior civil servants regarding the matters you describe in your request, and have no current intention to do so. This is because the FOIA does not include a duty to preserve records that would be disclosable under the Act, unless those records have been requested.

Advice and assistance

It may help to clarify that it is only a criminal offence under [section 77 of the FOIA](#) to intentionally prevent disclosure of information *if someone has already requested it*, and they would have been entitled to receive it. You can read more about this offence in our guidance on the [retention and destruction of information](#).

We also publish information regarding [FOI complaints and ICO enforcement powers](#) on our website. We investigate allegations of FOIA section 77 offences on a case by case basis. If you are interested in our wider powers of prosecution and enforcement then you may wish to read our [Prosecution policy statement](#), our [Investigations Manual](#), and our [Regulatory Action Policy](#).

We have received other FOI requests regarding our investigations of section 77 allegations. Our responses to those requests, and others, are published on our keyword-searchable [Disclosure Log](#).

It may also be of interest that in July 2022 the ICO issued a report to the UK parliament titled [Behind the Screens](#) about maintaining government transparency and data security in the age of messaging apps. This report is published on the ICO website.

As the news story you cite in your request relates to the Scottish Government, it is worth noting that the [Scottish Information Commissioner](#) is the independent public official responsible for promoting and enforcing Scotland's Freedom of Information law.

For the rest of the UK, you can read more [about the Information Commissioner's Office](#) on our website, including [who we are](#), our [decision making structure](#), and [how we are funded](#).

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