

23 April 2025

IC-379828-Z8S3

Request

'On page 4 of the 8 March 2024 British Library report 'Learning lessons from the cyber-attack : British Library cyber incident review' (<https://www.bl.uk/home/british-library-cyber-incident-review-8-march-2024.pdf/>), I note the following: "It is understood that the ICO will publish its own findings on the incident in due course, and the Library will abide by the recommendations of that report."

'Are you able to confirm whether or not this understanding is correct? I'm interested to read your report, if it exists; but I haven't been able to uncover it.'

We received your request on 22 April 2025.

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

Our response

We can confirm that we are currently investigating the cyber incident at the British Library. However, as the investigation is still ongoing we can neither confirm nor deny that we hold a final report.

FOIA section 31 (NCND)

Section 31(1)(g) exempts information if its 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),"

With the relevant subsections to this request being 2(a) and 2(c):

"(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 ..."

These purposes apply in relation to the information you have requested, given that we are investigating the British Library's compliance with data protection legislation.

Section 31(3) provides that:

"The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice any of the matters mentioned in subsection (1)."

We find that confirming or denying whether specific information is held in relation to the case would interfere with our ability to investigate as we see fit.

Section 31 is not an absolute exemption, however. The duty to confirm or deny depends on the balance of the public interest.

It is our view that the balance of the public interest supports the use of the provision to neither confirm nor deny that the requested information is held, for the following reasons:

- If we were to reveal details about the status of our enquiries this could lead to the British Library being reluctant to cooperate with us.
- Revealing information about an open investigation could lead to other parties being reluctant to engage with us in the future.
- Space is needed to conduct our enquiries without distraction due to information being prematurely released into the public domain.

It is also necessary to adopt a consistent approach to our response to requests for information about such matters, in the public interest, because any inconsistency could lead to inferences being made about that response, but also could inadvertently lead to conclusions being drawn about other 'neither confirm nor deny' (NCND) responses.

There is a risk that a confirmation or denial - which in itself appears benign - could enable somebody to deduce whether information was in fact held or not in other circumstances where an NCND response had been given. In such circumstances, that deduction could itself prejudice open enquiries, investigations and proceedings undertaken by the ICO.

It is therefore our view that, irrespective of the specific public interest in transparency in any individual case, the importance of maintaining the integrity of the NCND responses, past and present, is of the greater public interest.

Combine this with the public interest arguments specific to this request and I trust it will be clear why our response in the present case must be to neither confirm nor deny that the information you have requested is held by the ICO.

For the avoidance of doubt, therefore, nothing in the above should be taken as being either confirmation or denial that the ICO holds findings in relation to the investigation into the British Library.

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](#) on our website.

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