

15 January 2025

ICO Case Reference IC-350788-V8C0

Request for information

Request received 12 December 2024:

"In a response to a previous request, the ICO disclosed information about recruitment of a Director of Strategic Enforcement. I would like to make a request about some of what was disclosed. One document about the role included this paragraph:

"The proposed Director of Strategic Enforcement is critical to the delivery of ICO25 and specifically our priority to safeguard and empower people. They will lead a portfolio of enforcement cases against major technology firms, drawing together multidisciplinary teams of technologists, investigators and lawyers, to execute these cases rapidly and successfully"

and

"the Commissioner, General Counsel and Deputy Commissioner for Regulatory Supervision... are warmly supportive of this appointment"

I am requesting any progress reports, summaries or other documents that set out the progress made on the portfolio of enforcement cases described in the document. I do not need to see correspondence; I assume that as the Director of Strategic Enforcement was recruited, which was confirmed in the response to my previous request, the ICO will hold information about the project that this person was to take forward.

I would also like to request information about whether the Commissioner's recent comments that enforcement on Big Tech does

not work has had any impact on the portfolio of cases described last year.

As the ICO is currently recruiting for a Director of Enforcement and Investigations, I would finally like to see information about the current status of the Director of Strategic Enforcement role."

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 hold some information in scope of this request. It is exempt from disclosure as per section 31 of the FOIA. Further information about this exemption is provided below.

We do not hold any information in relation to "whether the Commissioner's recent comments that enforcement on Big Tech does not work has had any impact on the portfolio of cases described last year."

We can confirm that the Director of Strategic Enforcement role was merged with the Director of Investigations role to create the Director of Enforcement and Investigations. The vacancy for this post is currently being advertised via [ICO Careers](#).

FOIA Section 31

Some of the information you have requested 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 are contained in subsection 31(2)(a) and 31(2)(c) which state:

“(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 ...”

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.

The projects in the portfolio are ongoing. To release the requested information would prejudice the ICO's ability to conduct and conclude its work in an appropriate manner. Disclosure at this stage would inhibit ongoing discussions with organisations involved, damaging our capacity to engage with them freely and positively, and undermining our ability to achieve our regulatory objectives.

Disclosure could jeopardise the ICO's ability to obtain further information relating to these projects and others in the future as it is likely to result in parties being reluctant to engage with us. It is essential that organisations engage with us in a constructive and collaborative way without fear that information about them will be made public prematurely, or at all, if inappropriate.

Disclosure could also risk distracting from or causing interference with the ongoing engagement. Any information released at this stage could be misinterpreted, which in turn could distract from current or future processes and final outcomes.

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:

- openness and transparency in the way in which organisations respond to and engage with the ICO;
- openness and transparency in the way in which the ICO conducts stakeholder engagement to ensure compliance with the law; and
- The understandable public interest in the activities and compliance of the organisations with whom we engage.

The public interest factors in withholding the information are:

- in maintaining organisations' trust and confidence that their engagement with the ICO 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;
- in encouraging all organisations to engage with the ICO voluntarily, freely and fully; and
- in maintaining the ICO's ability to conduct its work as it thinks fit.

Furthermore, the ICO has a demonstrable history of publishing information about our work when appropriate to do so and 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 requested 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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Telephone: 0303 123 1113. Website: ico.org.uk

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