

30 January 2025

IC-356808-H4F4

Request

On 20 January 2025 you made the following request:

"In April 2024, the ICO intervened in BBC FOI request reference RFI20240020 (ICO ref IC-285412-S9W8). The BBC published their response to the ICO, but not the ICO's correspondence to the BBC.

(See https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.whatdotheyknow.com%2Frequest%2Fcomplaints_framework_annex_b_3&data=05%7C02%7Cicoaccessinformation%40ico.org.uk%7Ce9e2db7f2b09425f511208dd396d27fd%7C501293238fab4000adc1c4cfefba21e6%7C0%7C0%7C638729863220426498%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIIYiOiIwLjAuMDAwMCIsIIAiOiJXaW4zMlIsIkFOIjoiTWFpbCIslldUIjoyfQ%3D%3D%7C0%7C%7C%7C&sdata=IBOFFLuPk9XrSZEcjnc4RrUKWd5Ua7nXV%2Bs%2F%2F%2BwTJWA%3D&reserved=0)

In the absence of any decision notice by the ICO, could the correspondence be disclosed?

Shortly after the above, in August 2024, a similar request was made, BBC reference FOI2024/00330.

(See https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.whatdotheyknow.com%2Frequest%2Fcomplaints_20172076&data=05%7C02%7Cicoaccessinformation%40ico.org.uk%7Ce9e2db7f2b09425f511208dd396d27fd%7C501293238fab4000adc1c4cfefba21e6%7C0%7C0%7C638729863220443938%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiIwLjAuMDEAwMCIsIlAiOiJXaW4zMmMiSklFOiJoITWFpbCIldUIjoyfQ%3D%3D%7C0%7C%7C%7C&sdata=9QNnLovixuxDWUVWWGpF07nsVHB55BeUQxcOrIGciw0%3D&reserved=0)

Finally, it appears that the ICO does not issue formal decision notices in cases such as these. Does the ICO do any tracking of such 'mistaken' applications by the BBC of derogation, that are subsequently reversed?"

Response

We hold information that falls within scope of your request and have interpreted this as a request for:

- all correspondence sent from the ICO to the BBC in relation to IC-285412-S9W8;
- all correspondence exchanged between the ICO and the BBC in relation to an FOI complaint submitted to us about the request cited in your second link; and
- confirmation as to whether the ICO tracks this type of case.

A copy of the correspondence that falls within scope is attached.

Some third party personal data has been redacted in accordance with Section 40(2) of the FOIA. Disclosure of this data would break the first principle of data protection - that personal data is processed lawfully, fairly and in a transparent manner. There is no strong legitimate interest that would override the prejudice that disclosure would cause to the rights and freedoms of the individuals concerned, therefore we are withholding the information under section 40(2) of the FOIA.

In relation to your third point, the ICO does not have an individual tracker for 'mistaken applications by the BBC of derogation'. We do capture concerns identified through casework about an organisation as outlined on pages 7 and 8 of our [FOI regulatory manual](#). The regulatory manual informs how we use such monitoring and intelligence when considering regulatory action.

In relation to your point about decisions notices – the ICO does not issue these in relation to all complaint cases, but it is worth noting that one has been published in relation to the second complaint you mention in your request. It is available [here](#).

This concludes our response to your request.

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