

# Information Commissioner's Annual Report and Financial Statements 2019-20



# Information Commissioner's Annual Report and Financial Statements 2019/20

Report Presented to Parliament pursuant to Section 139(1) of the Data Protection Act 2018 and Section 49(1) of the Freedom of Information Act 2000 and Accounts Presented to Parliament pursuant to paragraph 11(4) of Schedule 12 to the Data Protection Act 2018.

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# Introduction

Our annual report is split into three sections.

The first section is our **Performance report**, which reviews our work across 2019/20. The sections set out our key achievements, with case studies providing in-depth examination of some of our most impactful work.

This section concludes with statistics covering the full range of our operational performance, summary reports on our financial performance, sustainability and whistleblowing disclosures made to us, and a statement on the ICO's status as a going concern.

The second section is our **Accountability report**, which includes declarations regarding corporate governance, remuneration and staffing, and parliamentary accountability and audit reporting. In this section we also provide further detail about our internal structures.

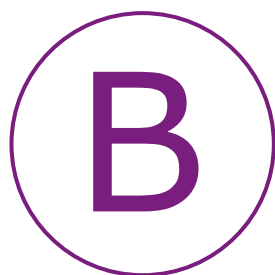
The report concludes with our **Financial statements**, comprising our financial performance.



# Performance report

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# Information Commissioner's foreword



This annual report covers a key period in data protection and broader information rights.

We have seen a transformative period in our digital history, with privacy established as a mainstream concern, and with complex societal conversations increasingly asking data protection questions.

This report shows the ICO has been at the centre of those discussions, from how facial recognition technology is used to how we protect children online. Our Age Appropriate Design Code is the most important piece of work covered in this report, and shows the ICO at its best: tackling challenging issues, consulting with those affected and taking practical steps that will prompt important changes that benefit society.

The Code is an example of the emphasis the ICO puts on enabling innovation. We carefully considered its impact on the industry and committed to a programme of practical support for businesses. The potential of new technologies and innovations needs public engagement, and trust around how data is used is an important factor in that. Our regulation can help encourage that confidence.

This report demonstrates the innovation we look to demonstrate in our own work. Our regulatory sandbox service has supported a number of organisations to develop creative products and services that use personal data, benefiting from the regulator's data protection advice and expertise. Our research grants programme has encouraged innovative research into privacy and data protection issues. And our service-focused changes across the past year have ensured we can continue to provide reliable and responsive services to the public, including our work around freedom of information.

The report also sets out our international work. The ICO continues to chair the Global Privacy Assembly, driving the development of the assembly into an international network that can have an impact on key data protection issues across the year. This benefits UK citizens, helping to protect people's personal data as it flows across borders, and helping UK businesses operating internationally.

While this report covers the financial year ending April 2020, it will be read in a world in which COVID-19 has changed society. The digital evolution of the past decade has accelerated at a dizzying speed in the past few months. Digital services are now central to how so many of us work, entertain ourselves and talk to friends and family.

In this context, data is now less the trail that we leave behind us as we go through our lives, and more the medium through which we are living our lives.

Yet COVID-19 has changed everything and nothing. The principles of data protection regulation continue: the importance of accountability, the emphasis on fair and reasonable treatment of people's data, the need to keep data secure, and so on. The law has not changed, and the ICO continues to be a proportionate and practical regulator.

We have demonstrated this approach throughout the pandemic. We have published clear guidance on how we would regulate through this period, and committed to utilising the flexibility that the law offers for these unique times. And we have engaged positively with government and health authorities looking to use innovative approaches to reduce the impact of coronavirus.

We have also led work to encourage international sharing of best practice on these issues, including an important statement on the value of record keeping during these historic times.

I am grateful for the continuing support and guidance of my Management Board, both the Non-Executive and the Executive Directors. The way the ICO is structured (which we set out in detail on page 88) means their continuous support, challenge and guidance is invaluable to me as we navigate new waters in information rights.

I am grateful too for the commitment and passion of my staff across our offices. It is a privilege to work with dedicated colleagues, particularly over the last few months when we focused much energy and services to government, organisations and individuals in the face of the COVID-19 public emergency.

Our work, both in response to the pandemic and more broadly, will continue this year. It is now three years since I wrote in my first annual report as commissioner, and wrote that continued growth and citizen confidence in the digital economy needed an information rights regulator that is helpful, authoritative, tech-savvy, practical and firm.

As we reflect on such a key year, I believe this report sets out how the ICO is now that regulator.

A handwritten signature in black ink, appearing to be 'ED', with a long horizontal line extending to the right.

**Elizabeth Denham**

7 July 2020

# Our mission, vision, strategic goals and values

## Our mission

To uphold information rights for the UK public in the digital age.

## Our vision

To increase the confidence that the UK public have in organisations that process personal data and those which are responsible for making public information available.

## Our strategic goals

1. To increase the public's trust and confidence in how data is used and made available.
2. Improve standards of information rights practice through clear, inspiring and targeted engagement and influence.
3. Maintain and develop influence within the global information rights regulatory community.
4. Stay relevant, provide excellent public service and keep abreast of evolving technology.
5. Enforce the laws we help shape and oversee.
6. To be an effective and knowledgeable regulator for cyber-related privacy issues.

## Our values

- Ambitious –** Working boldly, ready to test boundaries and take advantage of new opportunities; working with a sense of genuine urgency, continuously improving when striving to be the very best we can be.
- Collaborative –** Working towards achieving our goals, supporting one another whilst seeking and sharing information and expertise and working effectively with a range of partners to achieve our collective objectives.
- Service focused –** Working impartially and ethically to provide excellent services - continuously innovating to remain relevant to the environment we regulate.

## The legislation we regulate

The **Data Protection Act 2018** (DPA 2018) and the **General Data Protection Regulation** (GDPR) both commenced in May 2018 and build on and enhance the rights of individuals relating to personal data; including the right to know what information is held about them and the right to correct information that is wrong. The legislation also obliges organisations to manage the personal information they hold in an appropriate way.

The **Freedom of Information Act 2000** (FOIA) gives people a general right of access to information held by most public authorities. Aimed at promoting a culture of openness and accountability across the public sector it enables a better understanding of how public authorities carry out their duties, why they make the decisions they do and how they spend public money.

The **Environmental Information Regulations 2004** (EIR) provide an additional means of access to environmental information. The EIR cover more organisations than FOIA, including some private sector bodies, and have fewer exemptions.

The **Privacy and Electronic Communications Regulations 2003** (PECR) regulate the use of electronic communications for the purpose of unsolicited marketing to individuals and organisations, including the use of cookies.

The **Network and Information Systems Regulations 2018** (NIS) are derived from the European NIS Directive, which establishes a common level of security for network and information systems. These systems play a vital role in the economy and wider society, and NIS aims to address the threats posed to them from a range of areas, most notably cyber-attacks.

The **Infrastructure for Spatial Information in the European Community Regulations 2009** (INSPIRE) give the Information Commissioner enforcement powers in relation to the pro-active provision by public authorities of geographical or location-based information.

The **Re-use of Public Sector Information Regulations 2015** (RPSI) gives the public the right to request the re-use of public sector information and details how public bodies can charge for re-use and license the information. The ICO deals with complaints about how public bodies have dealt with requests to re-use information.

The **Investigatory Powers Act 2016** (IPA) imposes duties on communications service providers when retaining communications data for third party investigatory purposes where they have been issued with a notice from the Secretary of State. The Information Commissioner has a duty to audit the security, integrity and destruction of that retained data.

The **Electronic Identification and Trust Services for Electronic Regulations 2016** (eIDAS) sets out rules for the security and integrity of trust services including electronic signatures, seals, time stamps and website authentication certificates. The ICO has a supervisory role towards organisations providing these trust services, including being able to grant qualified status to providers and the ability to take enforcement action.

# Introduction

## A year in review

This year, we have set out our achievements and successes in six categories, all of which contribute to our top strategic goal of increasing public trust and confidence in how data is used and made available. Our annual track in 2019 showed 32 per cent of people have high trust and confidence in companies and organisations storing and using their personal information.<sup>1</sup>

### 1. Supporting the public

Our role includes helping people understand how their data is used, and protecting people's rights.

Children's privacy will be better protected online as a result of our work creating a design code for online services.

### 2. Enabling innovation and economic growth

Data protection can support innovation, by encouraging public trust in emerging technologies.

Our Regulatory Sandbox helps organisations deliver new products and services which are of real benefit to the public, with the assurance that they have built-in data protection.

### 3. Raising global data protection standards

The ICO's international influence helps to raise data protection standards worldwide.

Chairing the Global Privacy Assembly contributes to that, and helps ensure the personal data of UK citizens flowing across borders is subject to effective regulation.

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<sup>1</sup> <https://ico.org.uk/media/about-the-ico/documents/2615515/ico-trust-and-confidence-report-20190626.pdf>



#### 4. Taking regulatory action

The ICO offers consistent regulation, with clarity for business through our accessible guidance.

We are working to better protect people's data online by influencing change in the AdTech sector in a considered and proportionate way.

#### 5. Supporting the public sector

Successful innovation in the public sector often requires the public's trust in how their data is used, shared and kept safe.

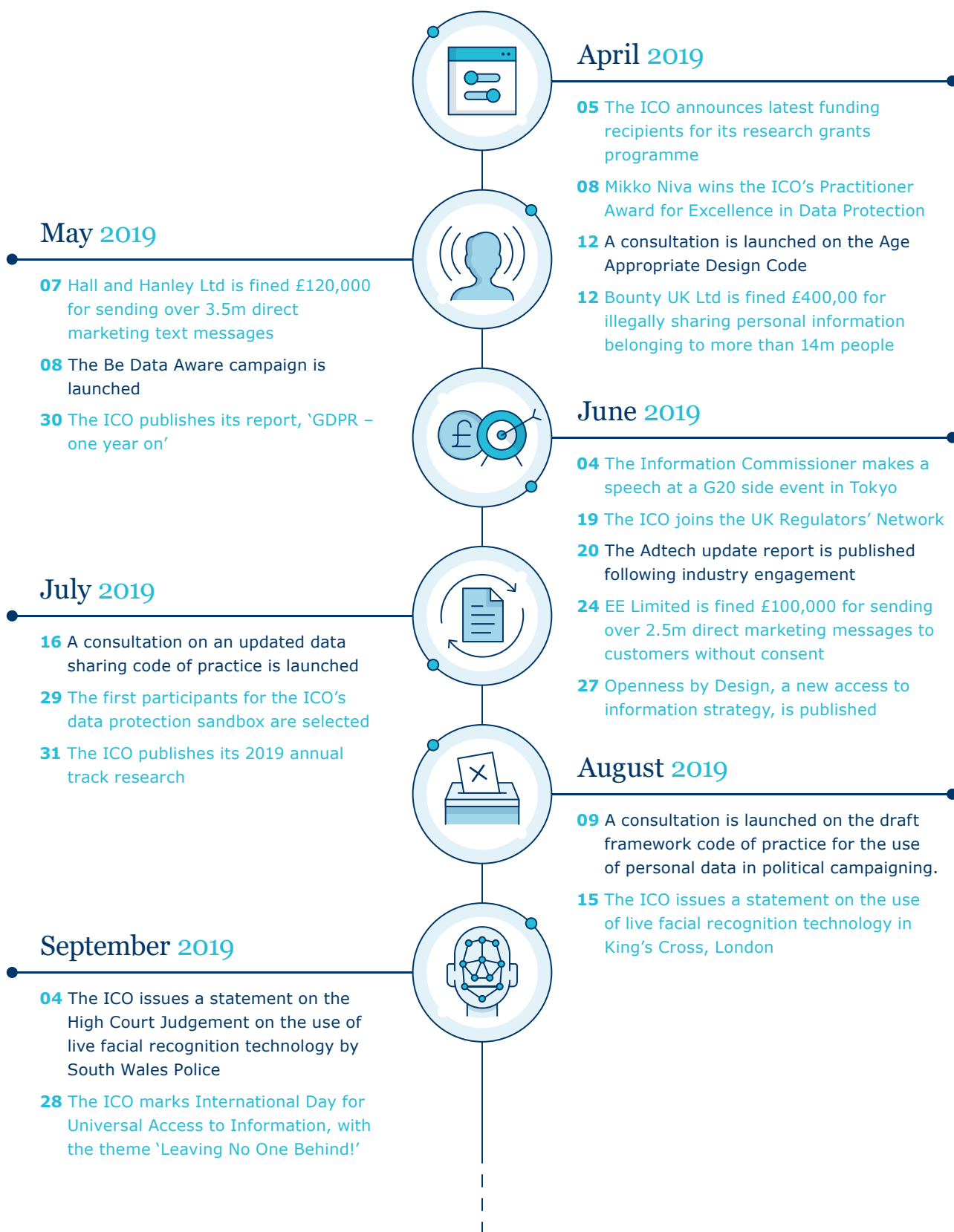
Our audit programme and work around transparency helps to encourage this public trust.

#### 6. Delivering the ICO service experience

The ICO is committed to a service focused approach across our work.

By integrating and expanding our advice and complaint services, we have been able to answer more people's data protection and freedom of information concerns.

# The year in summary



## October 2019

- 21** The Information Commissioner chairs the 41st Global Privacy Assembly in Tirana, Albania
- 28** End of a series of blogs used to gather feedback for the development of guidance on the use of AI
- 31** The ICO publishes Opinion on automated live facial recognition



## November 2019

- 05** The Information Commissioner writes to all political parties in relation to data protection law, ahead of the December 2019 general election
- 18** Appointed our first Data Ethics Advisor
- 27** ICO Deputy Commissioner Steve Wood appointed as Chair of the OECD Working Party on Data Governance and Privacy



## December 2019

- 02** Launch of consultation, alongside the Alan Turing Institute, on AI Guidance



## January 2020

- 08** Launch of consultation on the draft direct marketing code of practice
- 08** DSG Retail Limited is fined £500,000 after a major cyber-attack
- 21** The Age Appropriate Design Code is published
- 23** The ICO attends the second ICIC FOI case handling workshop
- 29** The ICO issues a statement on data protection and Brexit implementation



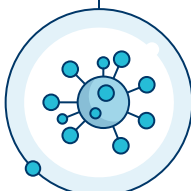
## February 2020

- 12** Statement issued regarding the governments initial response to the Online Harms White Paper consultation
- 28** ICO Codes of Conduct and Certification schemes open for business



## March 2020

- 02** The ICO issues CRDNN Limited £500,000 fine for making more than 193m automated nuisance calls
- 04** Cathay Pacific Airways Limited is issued fine of £500,000 for failing to secure its customers' personal data
- 12** Statement issued on data protection and COVID-19
- 17** The ICO moves to remote working as a result of COVID-19 pandemic



## Section 1: Supporting the public

An important aspect of the ICO's role is protecting people's data protection rights.

It is important the public understand that there is a regulator that protects the public on data protection issues, and in 2019/20, the ICO resolved more than 39,000 complaints made by members of the public concerned that their data protection rights had not been respected.

We also work proactively to support the public. One of the ICO's key roles is to help the public and government make informed decisions about how personal data is used. We do this by explaining issues in an accessible and understandable way, engaging with the mainstream media, publishing blog posts and using social media to explain our work to the public

### Protecting vulnerable people

A key priority over the past year has been our engagement with children's data privacy. Following detailed consultation, we produced an Age-Appropriate Design Code, which was laid before Parliament on 11 June 2020. (See case study below.)

We supported the Gambling Commission's work on protecting vulnerable consumers in the gambling sector, ensuring that data protection was built into new proposals. We have also been involved in the UK Regulators' Network's work on how vulnerable people are protected across a range of sectors and services; including looking at how we can improve our own services.

#### Case study:

## Age-Appropriate Design Code



### Summary

The ICO is working to better protect children's privacy online, through the creation of design standards for online services.

### **Why this is important**

One in five internet users are children yet many of the services they access have not been developed with their needs, or their vulnerabilities, in mind.

### **What we did**

We engaged with stakeholders including industry, child development experts, civil society groups and government to better understand the challenges involved. We also commissioned research working directly with children and their parents.

This informed our drafting of a statutory code of practice setting out 15 design standards that online services (eg apps, connected toys, social media, online games, educational websites and streaming services) should meet to protect children's data.

We then consulted on this draft Code. We considered the 450 responses we received and the final version included a greater focus on a risk-based approach to age assurance and allowed more flexibility in how organisations could meet the standards. The Code was submitted to the Secretary of State for Digital, Culture, Media and Sport (DCMS) in November 2019. The Government referred the Code to the EU Commission for scrutiny. That process was completed without any proposed changes and the Code was laid before Parliament on 11 June 2020.

### **What the outcomes were**

Although the Code was only laid very recently, it already had a significant impact on the debate about children's privacy and what data protection by design means. Organisations across the UK have been engaging with the Code and planning for how to implement it, and we have been engaging with stakeholders and have produced a short guide for small businesses to help with this process. It has increased the focus on children's privacy internationally and has influenced our engagement with the Organisation for Economic Co-operation and Development (OECD).

### **How this helped UK data subjects**

The Code requires online services to make the best interests of the child a primary consideration as they design and develop their products and services; placing responsibility on services to account for their decisions and to offer tools to help children and parents exercise the child's rights. It requires services to provide a high level of protection by design and default, so that if a child does nothing to review or alter their privacy settings they are still protected.

Other requirements include ensuring that terms and conditions are upheld, stopping the use of nudge techniques that encourage children to provide unnecessary personal data or weaken or switch off their privacy

protections, and ensuring that children's data is not used in ways that have been shown to be detrimental to their wellbeing.

### **Next steps**

Whilst we await the Parliamentary approval process, we will continue to engage with stakeholders to explain the requirements of the Code and to seek views about any additional support required. This will inform our work during 2020/21 to develop practical support before the Code comes into effect. We will also be developing our approach to regulatory supervision of those covered by the Code.

### **Informing the public**

During the 2019 European elections, we launched our #Bedataaware campaign to explain to the public how political campaigners may use data analytics to micro-target voters. We produced a short explanatory animation and updated our guidance to the public.

We also published blogs on how organisations should be using biometric data in a fair, transparent and accountable way. The blogs and associated communications gave people an insight into how organisations can use their personal data and informed people about their rights.

## **Section 2: Enabling innovation and economic growth**

Data protection has an important role to play in supporting innovation. The potential of emerging technologies and approaches relies on public engagement, and trust around how data is used is an important factor in that. Organisations can contribute to developing trust through approaches such as data protection by design and default, which ensure data protection is built into new projects and innovations at an early stage. Regulation also plays a role, giving assurance to the public that checks and balances are in place to protect their information.

As well as supporting the innovation that drives growth, our regulation also recognises the value of economic growth, from supporting SMEs with practical advice to building constructive and practical relationships with major technology companies.

### **Supporting innovation**

The ICO provides advice and support to innovators at every stage of their journey to stimulate, support, facilitate, check and learn from innovative proposals and projects. We work with a wide range of organisations, from public authorities to private business, on topics from fraud prevention to healthcare. We have also worked with stakeholders to provide opportunities for informal 'road testing'. This has helped to build a robust but collaborative working relationship with industry and thought leaders.

One of the key products we launched this year to do this was our **Regulatory Sandbox**, which supports organisations who are developing products and services that use personal data in innovative and safe ways. Further information about the Sandbox is provided in the case study below.

Our **Innovation Hub** provides similar expert advice to regulators and business with a focus on enabling organisations to build privacy by design into their innovation and development. The team supports other regulators' projects to give businesses across a range of sectors the confidence to create innovative products and services that are both compliant and effective. The Hub has worked across the health, finance and legal sectors. The 18-month project was funded by the Regulators' Pioneer Fund, and the support it has given includes advice on clinical trials data, AI and Open Banking.

Given the success of the Hub, we plan to broaden the scope of organisations it can work with and include more collaboration opportunities with other innovative organisations such as Catapults, incubators, and universities. We will also make the case for greater cross-regulatory working through the Hub model as a means of bringing a streamlined approach to regulation and promoting data protection good practice in a time when emerging technologies and their challenges bring increasingly overlapping regulatory boundaries.

Where businesses are innovating our **Data Protection Impact Assessment (DPIA)** Team has helped to ensure that they take account of data protection legislation and the rights of their customers. We have helped innovating businesses to properly document their consideration of data protection obligations and how they will ensure new projects do not pose a high risk to individuals' privacy or wider rights and improve transparency: a major step in delivering data protection by design and default.

We also have run 'deep-dive' sessions with some of our most significant Digital Economy based stakeholders, where high profile organisations have shared their approaches to embedding data protection by design with us. For example, a recent session provided an insight into how a leading social media company brought the DPIA process within their workflow for system functionality and feature developments.

In the Summer of 2019 we undertook an **Innovation Listening Tour**; consulting and speaking to businesses, investors, government, academics and public sector organisations to better understand the risks and issues innovators encounter and how a regulator can help to remove barriers. We will embed the outcomes of that tour in our future work programmes.

The development of AI has posed an increasing series of questions for innovators around how its use can be compliant with good data protection practice. In March 2019 we began a series of blogs which ran throughout the year, spearheaded by our Postdoctoral Research Fellow in Artificial Intelligence,

Dr Reuben Binns. These blogs were about the development of a framework to allow the auditing and assessment of the risk associated with the use of AI applications, and how to ensure their use is transparent, fair and accountable. This approach culminated in the launch of a formal consultation in February 2020<sup>2</sup>. We plan to publish the final guidance during the summer.

During this year, we also began to conduct research and engage with a wide range of stakeholders about anonymisation and Privacy Enhancing Technologies (PETs). This included engaging with academia, industry, public bodies and the health sector. This has covered issues such as re-identification risks, anonymisation in context, data trusts, intruder testing, and genomics. We have also engaged with other data protection authorities and standards bodies to seek alignment.

This has allowed us to clarify the key questions that need to be addressed in our guidance and informed our thinking on state-of-the-art tools and techniques. We will continue to engage with stakeholders about this throughout 2020/21, with a view to publishing blogs throughout the year on the development of our learning, culminating in new and updated detailed guidance.

### Case study:

## Regulatory Sandbox



### Summary

The Sandbox service aims to support organisations to develop products and services that use personal data in innovative and safe ways. Through the Sandbox, organisations can engage with us; draw upon our expertise and advice on mitigating risks and on 'data protection by design', whilst ensuring that appropriate safeguards are in place.

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<sup>2</sup> <https://ico.org.uk/about-the-ico/ico-and-stakeholder-consultations/ico-consultation-on-the-draft-ai-auditing-framework-guidance-for-organisations/>



### **Why this is important**

The Sandbox helps organisations deliver new products and services which are of real benefit to the public, with the assurance that they have built-in data protection. The Sandbox is also important in helping us understand how organisations are innovating in the use of personal data, and how we should best engage with this innovation.

### **What we did**

We reviewed existing Sandboxes, talking to the Financial Conduct Authority who have operated a Sandbox for several years. We also took inspiration from work done looking at how regulation needs to evolve to handle innovation before consulting on our intended approach. We then developed a detailed discussion paper on how the service would operate before running workshops with potential end-users to test our approach.

We launched the Sandbox beta phase in March 2019 for a sample of organisations to try out the service. We then chose 10 organisations to work with us; developing an understanding of their product and service and putting in place a bespoke plan for their involvement in the Sandbox.

All plans are now underway, and we are working with the organisations in a range of activities including workshops, written advice, site visits, process mapping and detailed considerations of how our guidance needs to be applied in each of the organisation's specific contexts.

### **What the outcomes were**

Whilst still a work in progress we have already gained insight through workshops and offered advice on how our existing guidance should be used in their unique circumstances. This has pushed us to consider where additional guidance may help organisations with compliance.

### **How this will help UK data subjects**

The work we do in the Sandbox will enable us to address some key issues for those innovating with personal data in the services they provide, including:

- realising the benefits of data in the public sector;
- consent challenges;
- the challenges of new technology; and
- data analytics.

### **Next steps**

Over the remainder of the Beta phase we are looking forward to working alongside the organisations to develop some ground-breaking projects to a

fully working solution, delivering innovative and compliant products and services for the public good.

These projects are potentially a blueprint for future work, laying down the privacy building blocks for future organisations, combining data protection and innovation. As we near the end of the Beta phase, we will undertake our own lessons-learned exercise and consider how best to develop the Sandbox service in future. Further information on the Sandbox is available on the ICO's website<sup>3</sup>.

## Working with businesses

A key aspect of our regulatory work is engaging with businesses and organisations to help them comply with the law.

This year we introduced our new SME Service Hub. This allowed us to begin to evolve our services so that they are more accessible to non-expert and time-pressed small organisation owners and employees. It adds to our existing SME helpline and live chat service and includes easy-to-follow advice, toolkits, checklists, podcasts and FAQs to help SMEs get started in data protection.

In the run-up to the UK's exit from the European Union we created a suite of products and worked to get the links to our guidance shared on other people's websites. We used this opportunity to continue to build links with organisations that support SMEs, helping us to reach wider audiences and giving them the opportunity to learn more about data protection.

One of our main partners has been the Federation of Small Businesses, with whom we delivered a series of 'Business Masterclass' workshops. Attendees praised these events for being informative, accessible and engaging. We also broadcast live on Facebook in support of Small Business Saturday and attended the Festival of Enterprise.

Throughout 2019/20, the ICO, as a regulator with responsibility across the whole economy (both domestically and internationally, as data has no borders), has continued to work to deepen our engagement with the major businesses we regulate, particularly those with significant data protection impacts.

Our work extends beyond the UK, to include major technology companies based in North America (see case study below). Our broader international work, through the Global Privacy Assembly and Organisation for Economic Co-operation and Development (OECD) Privacy Committee also contributes to this work.

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<sup>3</sup> <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/03/combining-privacy-and-innovation-ico-sandbox-six-months-on/>

## Case study:

# San Francisco



### Summary

The Information Commissioner and a delegation of her staff visited California to engage with large technology businesses.

Why this is important: The key message in our engagements with businesses throughout the UK and the world in 2019/20 was the need for a new relationship of trust and cooperation between regulators and business, if we are to find the right balance between freedom and protection in the digital world. We need a richer engagement on the privacy implications of engineering and business models at an earlier stage, and to ensure that these are baked-in from the design stage.

### What we did

During this visit, the Commissioner and her staff had extensive meetings with technology businesses small and large, including Twitter, Uber and YouTube, and board-level meetings with Apple, Facebook and Google. We met with the venture capital community, civil liberties campaigners, engineers, and privacy practitioners. The Commissioner gave a guest lecture and met staff and students at UC Berkeley School of Law, and met the key politicians in Sacramento behind the California Consumer Privacy Act (CCPA) - Assemblyman Ed Chau and Attorney General Xavier Becerra.

### What the outcomes were

The reception was universally warm and welcoming and helped us to build strong relationships with key stakeholders. The UK's brand of pragmatic and proportionate regulation was widely praised by businesses and lawmakers, as was our willingness to find new regulatory solutions to problems. It was striking how closely the privacy developments in the UK were being followed in California. For example, recognition of the strengths of the UK's legislative framework and the ICO's regulatory powers during

our investigations was attributed as being a catalyst to the efforts to develop the CCPA.

### **How this will help UK data subjects**

When UK citizens use apps or digital services, they expect their data protection rights to be protected, irrespective of where the company providing the service is based. Our visit built lines of communication with big technology companies that will help us to better protect people's data protection rights.

### **Next steps**

The California Senate is already working on a 'kid's code' modelled on our Age Appropriate Design Code (explained in detail earlier in the report). We came away from California with commitments to sustain and further develop this engagement. We will also continue to build on the relationships we established during the visit.

## **Enabling economic growth**

Building our relationships with major technology companies has only been part of our work to enable economic growth. During 2019/20 we have worked to build our economic analysis capabilities, to ensure that economic impact is factored in at all stages of our work. This helps to ensure our approach to regulation is proportionate, and takes account of how we might support or enable economic growth, as required by the Regulator's Code.

In the coming year, the plan of work in this area will be headed by a newly appointed Head of Economic Analysis, who has joined us on secondment until January 2021. This will include training for staff, development of an impact assessment framework to inform our regulatory decisions, and greater analysis of the economic impact of our work.

During 2021/22 we will also expand the size and capability of our economic analysis team to ensure that we have sufficient capacity to deliver this work throughout the year and beyond.

Economic analysis has been an input into some of our major casework, ensuring that this work sufficiently factors in the economic context. Some key areas are the innovative use of data and public sector data sharing, international transfers, and AdTech, as well as more generally understanding the interactions between privacy and competition.

Enabling economic growth also requires cooperation with other regulators. Work we have undertaken with the Competition and Markets Authority (CMA), Ofcom and others has allowed for a more joined-up approach to regulating in such an environment and greater clarity for stakeholders.

Our work with other regulators has given us a better understanding of data protection issues and how they can be approached as we are more aware of, and can minimise, the unintended consequences of proposed regulatory intervention. For example, joint working with regulators across the legal, health and finance sectors has identified emerging issues such as AI-assisted decision-making and targeting which touch on other regulators' remits.

We have also taken advantage of our membership of the UK Regulators' Network (UKRN). The UKRN brings together regulators from the utility, financial and transport sectors for the benefit of consumers and the economy to share knowledge, explore cross-cutting issues and build better ways of working.

### **Encouraging innovation in privacy**

We support the private sector to develop new privacy-friendly ideas, particularly through our research grants programme. A case study on this is provided below.

We also recognise good practice by data controllers and their increasingly vital role through our annual ICO Practitioner Award for Excellence in Data Protection. At the end of the year we awarded our third annual award to Barry Moulton, Information Governance and Privacy Consultant, and former Head of Information Governance at an NHS Trust.

Chosen by an independent panel, Mr Moulton was recognised for his commitment to protecting the data protection rights of NHS patients, showing passion for his subject, and wanting to leave a legacy of good data protection practice by training others. The ICO particularly welcomed Mr Moulton's comment that he wants patients to receive the best care and treatment they can by virtue of the most effective use and management of their personal information.

This sums up what good data protection professionals understand: that good data protection is a help, not a hindrance, to innovation and excellence.

#### Case study:

## The ICO Research Grants Programme



## Summary

The ICO's Research Grants Programme provides £1m from 2017 to 2021 to stimulate external expertise and encourage innovative research into privacy and data protection issues. It supports initiatives that contribute to raising public awareness of data protection issues and rights, promoting best practice and developing the ICO's own policy thinking in emerging areas of interest.

## Why this is important

The programme delivers high-quality outputs linking innovative practice from the research sector to practical benefits for the UK public:

- To increase the public's trust and confidence in how data is used and made available.
- To improve standards of data protection rights practice through clear, inspiring and targeted engagement and influence.
- To stay relevant, provide excellent public service and keep abreast of evolving technology.

## What we did

We funded our first four projects in 2018/19 (Phase 1). Those projects, which are now completed, covered:

- machine readable privacy notices and data protection rights in banking and insurance (Open Rights Group);
- digital privacy skills for children toolkit (London School of Economics);
- privacy tool and user interface for health care records (Teesside University); and
- a tool to evaluate the risk of re-identification (Imperial College London).

While the ICO funds and supports these research projects under the Grants programme, the research itself is independent and we do not seek to influence its conclusions.

For the 2018-19 call (Phase 2), we received 67 applications. Key themes from the applications included AI, machine learning and biometric data, as well as children's data, improving practice for SME's and privacy applications of blockchain. We funded the following four ongoing projects:

- research on the impact of data protection laws on genomic technologies (PHG Foundation);
- research on privacy by design in smart homes (University of Oxford);

- data protection rights inclusion for homeless people (The Connection at St Martins in the Field); and
- training programme for researchers working with routinely collected data (Cardiff University).

### **What the outcomes were**

The Phase 1 projects have ended with key outcomes including the development of online open source toolkits and in-depth reports highlighting good practice for children's privacy, data protection rights in the banking and insurance sector and anonymisation of personal data as well as the sharing of patient healthcare data. LSE's work on children's privacy was highlighted by the UN Special Rapporteur's end-of-mission statement on the Right to Privacy in the United Kingdom.

LSE's research has also fed directly into our own work, such as the Age Appropriate Design Code. Other projects, such as ICL's research on data anonymisation supports the development of the ICO's Anonymisation Code of Practice. Alongside this, PHG Foundation's work on genomic technology and the GDPR continues to develop and inform our understanding of an emerging and important sector.

### **How this helped UK data subjects**

These project tools help the public understand complex and emerging technological and data protection issues. Their open source nature ensures that others can continue to explore and develop these tools, maintaining their relevance and use beyond the initial scopes of the projects.

Furthermore, many of the projects have directly engaged with the UK public, seeking to understand their experiences and concerns about data protection issues, from their rights under GDPR, concepts of privacy and data flows. This has ensured that project outputs remain accessible and relevant as well as providing a key source of qualitative data for the ICO to draw upon.

### **Next steps**

We will pull together what we have learned from Phase 1 and its outputs and bring the Phase 2 projects to a conclusion. Phase 3 projects will be launched in 2020. Finally, a launch for Phase 4 is planned for 2021.

We are also considering how the Grants programme might develop in the future.

## **Section 3: Raising global data protection standards**

The ICO's international influence helps to raise data protection standards and regulator co-operation worldwide. We take a leading role in several multi-lateral



forums. This includes being Chair and Secretariat of the Global Privacy Assembly (GPA), which brings together 130 data protection authorities worldwide to address emerging policy and technical issues and develop greater cooperation.

Improvements to global data protection standards help to increase our confidence that the personal data of UK citizens flowing across borders is subject to continuous scrutiny and effective regulation from a connected network of regulators. This also helps to ensure that UK businesses are supported to operate globally, which is particularly vital to support the digital economy after the UK's exit from the European Union.

### Case study:

## Global Privacy Assembly (GPA)



**GPA**  
Global Privacy Assembly

### Summary

The Commissioner is currently Chair of the GPA and ICO staff provide the Secretariat as well as being both leads and members of key working groups. This commitment demonstrates and advances the UK's leadership of the global privacy and data protection agenda, influencing the direction of the GPA's work to champion regulatory cooperation and better enable data protection and privacy authorities to fulfil their mandates for the benefit of individuals and organisations.

### Why this is important

Individuals suffer when data protection goes wrong; and free flows of data are key to trust in trade and economic relationships. The GPA works to develop consistent approaches to emerging data protection issues that members can then use to influence their respective government policy makers. This is particularly important in today's globalised world with cross-border data protection issues and in the context of technological advances such as AI, rapid changes in the digital economy and the requirements to enforce when companies operate worldwide. Our Chair, Secretariat and active Working Group roles allow us opportunities to influence the GPA's work in support of our domestic regulatory role.



## **What we did**

The ICO led a new strategic direction for the Assembly, developing a highly significant resolution on the Conference's Strategic Direction 2019 – 2021 which was adopted at the October 2019 conference held in Tirana. This resolution is coupled with the first ever GPA Policy Strategy and sets out a clear vision for the GPA for the next two years.

The policy strategy is based on three pillars: evolution toward global frameworks and standards; greater enforcement cooperation; and identifying priority policy themes and support the GPA's strategic priorities. The move to strengthen regulatory co-operation paves the way not only to sharing best practice, but potentially sharing lines of enquiry year-round to improve authorities' responses to the digital economy challenges for individuals' personal data.

In October, together with the Albanian conference hosts, the ICO welcomed more than 700 participants to the annual conference. These represented 90 data protection and privacy authorities, and stakeholder groups from across the law, industry, academia, law enforcement, civil society privacy advocacy group and international organisation sectors.

In addition, the conference and around 25 side events discussed emerging priorities for data protection authorities such as practical accountability methods in organisations and cross-border convergence in data protection law, bringing together ideas that authorities can use at local level. Conference members also followed up on the conference's recent Declaration on AI and global promotion of the importance of privacy as a fundamental human right.

## **What the outcomes were**

The implementation of the newly adopted policy strategy is now well underway and will continue throughout 2020.

The documents adopted provide a roadmap for action<sup>4</sup>. The GPA will take future action to establish a contact group to proactively engage with other key stakeholder groups in the privacy arena.

## **How this helped UK data subjects**

The GPA initiative is a substantial effort in driving up global standards of data protection, with commitment from data protection and privacy authorities from every continent where there is data protection law. Initiatives such as this help to bolster public confidence that the personal data flowing across borders is subject to continuous scrutiny and effective regulation from a connected network of regulators.

## **How this helped UK businesses**

Promoting good data practices and common global frameworks through the GPA assists in improving consumer trust in the digital space, which in turn helps to boost the economic outlooks of British businesses. GPA resolutions help to achieve consistency between members' outreach strategies to business, other regulators and other stakeholders. The business sector will also be able to share their views on global agenda issues addressed by GPA, through business voice representation in the new GPA Reference Panel.

### **Next steps**

The GPA policy strategy implementation will be reinforced by an outward looking approach to engaging with key groups of stakeholders, in particular civil society, in a reference panel to be formed in 2020.

## **European Data Protection Board (EDPB)**

Until 31 January 2020 we were a full member of the EDPB as it continued to support the implementation of the GDPR. We have played an active role in the Board's expert sub-groups, on issues including AdTech and guidance on new technologies, and in the development of EDPB's approach to codes of conduct and certification. We are also involved in many one-stop-shop enforcement investigations and applications by multi-national corporations for authorisation of binding corporate rules for intra-group transfers of personal data.

After the UK's exit from the European Union in January 2020, our membership of EDPB ended and our role in the one-stop-shop system will cease at the end of the transition period. During the run-up to this, we therefore focused on building relationships with key European data protection authorities to ensure we continue our strong relationships and strong data protection for the UK public and organisations after the UK's exit from the EU.

## **Expert advice and guidance on the UK's exit from the European Union**

We played an active role during 2019/20 supporting Government planning for No-Deal scenarios and ensuring that guidance and information was available for businesses and the public sector. And since the UK left the EU on 31 January 2020 the ICO has providing expert independent advice to Government to support their consideration of new approaches to continued regulatory cooperation between the UK and EU and to define ICO's role in the EU Adequacy process. A key area of work for the coming year will therefore be developing new mechanisms and approaches for our relationship with the EDPB, EU Commission and individual European data protection authorities now that the UK has left the EU.

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<sup>4</sup> More information on documents adopted by the Assembly on its website: <https://globalprivacyassembly.org/document-archive/adopted-resolutions/>

## **Chairing the Organisation for Economic Co-operation and Development (OECD) Data Governance & Privacy Working Group**

Since November 2019, the Deputy Commissioner for Regulatory Strategy has been Chair of the new OECD Data Governance & Privacy Working Group, a key sub-committee of the OECD Committee for Digital Economy Policy.

## **Co-operating on International enforcement work**

International enforcement and cooperation between supervisory and data protection authorities is essential to ensure effective responses to major data privacy or security incidents, some of which have affected large numbers of data subjects on a global scale.

This work includes our involvement in several information sharing and cooperation platforms, and the development of bilateral relationships with specific international regulators in connection with specific investigations or areas of concern. In the EU system, the ICO has Lead Supervisory Authority status (LSA) for several current investigations, and where we are not the LSA, we have continued to ensure that the data protection rights of UK subjects are protected.

We have also developed our relationships with authorities responsible for other legislative obligations such as NIS; this is key to achieving an effective response to network security and data security incidents where large numbers of individuals in multiple territories are affected.

## **Section 4: Taking regulatory action**

The ICO offers strong, predictable and consistent law and regulation, married with clarity for business through our accessible guidance and our considered, consultative approach to novel issues.

The ICO devotes around three quarters of its resources to proactive engagement activities. In this section of the report we set out the highlights of this work in 2019/20.

In addition to engagement, we took action. In total throughout 2019/20, the ICO there were 236 instances of the ICO taking regulatory action in response to breaches of the legislation it regulates. That included 54 Information Notices, eight assessment notices, seven Enforcement notices, four cautions and eight prosecutions and fifteen fines. During the year we conducted over 2,100 investigations. This section of the report provides some information on some of the key regulatory action we have taken throughout the year.

## **Understanding and influencing innovation practice and culture**

As set out in the San Francisco case study above, we have engaged with our stakeholders in the technology sector to develop a deeper understanding of their approaches to data protection by design in innovation, and to set out ICO

positions on high-profile issues such as age-appropriate design, targeted online advertising, and personalisation of online services. This engagement was demonstrated by Board-level meetings with Apple, Facebook and Google in February.

### Case study:

## AdTech: Real Time bidding



### Summary

AdTech is a form of advertising that involves the automated buying and selling of online advertisements in real time. Real Time Bidding (RTB) refers to the process whereby advertisements are auctioned in real time. We began reviewing data protection practices in the RTB ecosystem in Autumn 2018 in response to general concerns about how personal data is processed to support the auction of online adverts, the large scale (billions) of transactions a day and the high speed nature of the processing.

### Why this is important

RTB raises several data protection rights risks due to the nature of the processing activities, eg large-scale processing, profiling and automated decision making, combining and matching data from multiple sources, tracking of location or behaviour, and invisible processing. The auctions involve processing the personal data of most internet users with millions of 'bid requests' processed every second and shared through an ecosystem of numerous participants.

Our concerns centred on compliance of RTB with the data protection framework (DPA 2018, GDPR and PECR), which included issues around the processing of special categories of data, the security of data as it is transferred between many third parties, and the possibility of applying legitimate interests as a lawful basis for processing.

### What we did

We undertook an intelligence gathering and engagement exercise to better understand the nature of the RTB ecosystem, and to evaluate our own

concerns as well as those presented to us by external parties (Brave and Privacy International). On 20 June 2019 we released the Update report which identified nine areas of concern:

- Non-compliance with PECR requirements about the use of cookies and similar technologies, and applicable consent requirements.
- Processing of special category data was taking place without explicit consent, and no other condition applies.
- The standard of legitimate interest assessments within industry provided limited assurance of the understanding of this lawful basis
- Lack of understanding about the legal requirements to undertake data protection impact assessments in RTB, leading to low confidence that the risks to data protection rights and freedoms had been properly assessed and mitigated.
- Privacy information provided to individuals lacks clarity and is overly complex, with industry frameworks being insufficient to ensure transparency, fair processing, and valid consent.
- Extensive processing of personal data and its disclosure to multiple organisations without the knowledge of individuals.
- Inconsistent application of technical and organisational measures.
- Inconsistent data minimisation and storage limitation controls.
- Individuals have no guarantee about the security of their data once it enters the ecosystem.

In July 2019 we revised our guidance on the use of cookies which had direct relevance to the processing in AdTech. This, and the update report, helped provide clarity to industry on the issues and what we expected participants to do to ensure transformation of practices and compliance with the law. We provided a 'grace period' of six months (to the end of December 2019) to enable participants to develop plans for change.

During this period, we continued our engagement with trade associations and other stakeholders, in particular IAB Europe and Google. Since then we have noticed that while some parts of the industry have started to recognise that change is necessary, there is still significant inertia. Therefore, we are now using the intelligence gathered and our engagement activity to develop an appropriate regulatory response

### **What the outcomes were**

We have significantly raised awareness amongst the industry and media of the issues within the RTB ecosystem.

The level of engagement from industry on this issue has demonstrated their appetite to address the concerns we have identified. In addition, we have:

- developed a robust, evidence-based assessment of the concerns identified;
- articulated to data subjects and controllers, in a clear manner, the issues and expected changes;
- engaged with industry to help them understand how they can transform their approach; and
- started to develop a plan to address the inertia that still exists by considering what the appropriate regulatory response should be

### **How this helped UK data subjects**

Our work on AdTech and subsequent press interests has led to increased awareness among individuals about how their data is processed online. Additionally, through better understanding by industry of the issues, we have also seen the start of changes that will lead to positive outcomes (eg; Google and the IAB have committed to undertake changes that will transform practices).

However, the ICO's AdTech work is not complete, and significant additional effort will be needed to address the issues within the RTB ecosystem. This will be the focus for 2020/21.

### **Next steps**

In line with our regulatory approach during the COVID-19 pandemic, at the time of writing we have made the decision to pause our investigation into RTB and the AdTech industry. It is not our intention to put undue pressure on any industry at this time. However, our concerns about AdTech remain and we aim to restart our work during 2020/21, when the time is right.

### **Updating and producing new guidance**

We developed new guidance in the event that the UK leaves the European Union with no deal in place, Special Category Data (Articles 9 and 10), the Immigration Exemption, and on Special Category Data and Part III Processing. We also created detailed guidance, with the Alan Turing Institute, on how to provide explanations of decisions made with AI, which was published in May 2020<sup>5</sup>.

In addition, we updated guidance on a wide range of areas, including Your Credit Explained, Right of Access, Right to Erasure, Right to Object, as well as on FOIA and the EIR.

In a recent survey 91% of respondents ranked ICO guidance as the single most useful source of information to help them develop their internal compliance. 77% of respondents also rated our ICO Guide to GDPR and as more useful than

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<sup>5</sup> <https://ico.org.uk/for-organisations/guide-to-data-protection/key-data-protection-themes/explaining-decisions-made-with-ai/>

other sources of information such as third-party frameworks (11%%) consultancy support (10%) and law firm advice (4%).

All our guidance is available on our website at [ico.org.uk](https://ico.org.uk).

## Launching new GDPR services

We launched new services that were introduced by the GDPR:

- **Codes of conduct** help organisations that represent a group of data controllers (eg trade, membership or professional bodies) to support compliance with key data protection issues.
- **Certification** allows organisations to develop GDPR certification schemes for personal data processing within defined products, services or processes.

The launch represents the culmination of over a year of negotiations with external stakeholders, our national accreditation body UKAS and our European counterparts at European Data Protection Board (EDPB) to ensure we have the right processes and systems in place to support these new processes. Further information is available on our website<sup>6</sup>.

In 2020/21 we plan to launch our Accountability Framework. This will, for the first time, set out clearly our expectations on the key practical measures which organisations need to have in place to demonstrate compliance with data protection rights legislation.

## Taking proportionate action when required

We have concentrated resources on the investigation of cases aimed at improving data security practices, reducing unlawful access, and addressing compliance concerns about the use of new surveillance technology. These areas, along with nuisance calls and texts, have dominated our investigative and enforcement activities.

We identify the key areas of concern through our Strategic Threat Assessment, which draws on information gathered throughout the ICO to identify emerging threats to information rights. A case study on this is provided below. We assess all potential cases against a prioritisation framework, with the highest priority cases subsequently assessed against a detailed risk assessment framework. This enables us to identify where risk, impact or harm is highest and to allocate resources accordingly.

In May 2020 we issued an enforcement notice against Her Majesty's Revenue and Customs (HMRC) following an investigation into HMRC's voice authentication service. Our investigation found that HMRC did not have adequate consent from

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<sup>6</sup> <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/02/ico-codes-of-conduct-and-certification-schemes-open-for-business/>



its customers for this service and the enforcement notice ordered HMRC to delete any data it continued to hold without consent. Further information is available on our website<sup>7</sup>.

During the year our investigations resulted in four cautions and eight prosecutions. These cases were prosecuted under section 55 of the Data Protection Act 1998, section 77 of the Freedom of Information Act 2000 and Section 170 of the Data Protection Act 2018. In 75% of cases the defendants submitted guilty pleas negating the necessity for protracted trials with the associated costs.

The case prosecuted under section 77 of the Freedom of Information Act 2000 was the first successful prosecution of its kind. The defendant in this case was convicted of an offence of blocking records with the intention of preventing disclosure.

Section 77 of FOIA states a person “is guilty of an offence if he alters, defaces, blocks, erases, destroys or conceals any record held by the public authority, with the intention of preventing the disclosure by that authority of all, or any part, of the information to the communication of which the applicant would have been entitled.”

This case emphasised the critical importance of transparency for public authorities in the way they carry out their business.

2019/2020 saw the issue of the first penalty notices under the Data Protection Act 2018 for non-compliance. We publish details of the enforcement action we have taken on our website<sup>8</sup>.

Two of our most significant cases this year were the major data breaches of British Airways and Marriott, which received a large amount of media attention in July 2019. The regulatory process is ongoing in these cases.

We also settled a case with Facebook, which had been brought under the DPA 1998. The full statement on this settlement is available on our website<sup>9</sup>.

The ICO continues to have a range of powers, which we use proportionately and in response to the risk. Below are three examples:

### **Law enforcement use of facial recognition technology in public places**

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<sup>7</sup> <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2019/05/blog-using-biometric-data-in-a-fair-transparent-and-accountable-manner/>

<sup>8</sup> <https://ico.org.uk/action-weve-taken/enforcement/>

<sup>9</sup> <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2019/10/statement-on-an-agreement-reached-between-facebook-and-the-ico/>



We conducted an investigation into the law enforcement use of facial recognition technology (FRT) in public places. The investigation particularly focused on the use of live facial recognition capabilities in South Wales Police (SWP) and the Metropolitan Police Service (MPS).

During the course of the investigation the ICO attended police deployments of FRT and conducted compliance assessments of SWP and MPS, including onsite examination of policies, procedures and technology.

The investigation did not limit itself to reviewing facial recognition capability in the context of data protection legislation, but scrutinised the entire legal framework within which FRT was operating in order to inform and develop the ICO's policy positions regarding lawful basis, human rights, and the adequacy of the technology on bias and anti-discrimination.

Based on our investigative findings, the MPS and SWP have made significant changes to the ways in which they process personal data, setting clear direction on standards and quality nationally. The ICO also published the first Commissioner's Opinion in October 2019 under data protection legislation<sup>10</sup>, explaining the application of data protection law to the use of FRT for the law enforcement purpose.

The investigation has driven improved practices in the UK, and we have seen revised law enforcement policies and procedures to align them with the Opinion and continue to have positive engagement with police organisations. The ICO's investigative and policy delivery on FRT were presented at the Asia-Pacific Privacy Authorities (APPA) forum in the Philippines in December 2019 and the ICO has received excellent feedback from data protection experts internationally.

This case has helped the public understanding of the issues that affect their information rights and privacy. In 2019 the ICO intervened in a judicial review of SWP's use of facial recognition technology. Critically the court agreed with the ICO's evidence that the facial recognition process relies upon biometric data of individuals, irrespective of whether a match occurred, and that data protection legislation applies. The court also confirmed that the Commissioner has a primary role in regulating the use of FRT by the police. The ICO continues to be involved in the appeal case, which is due to be heard in June 2020.

### **Metropolitan Police Service (MPS) and the Gang Matrix**

Last year we served a notice on the MPS for their work on the gang matrix. This was a database which recorded intelligence related to alleged gang

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<sup>10</sup> <https://ico.org.uk/media/about-the-ico/documents/2616184/live-frt-law-enforcement-opinion-20191031.pdf>

members and victims of gang related crimes. We have continued our work to ensure that the terms of the November 2018 enforcement notice were met. This notice required MPS to make a significant number of changes to their governance, policies and procedures to improve compliance with data protection law. This has resulted in substantial improvements to compliance and the removal of many individuals who MPS has agreed should not have been on the matrix.

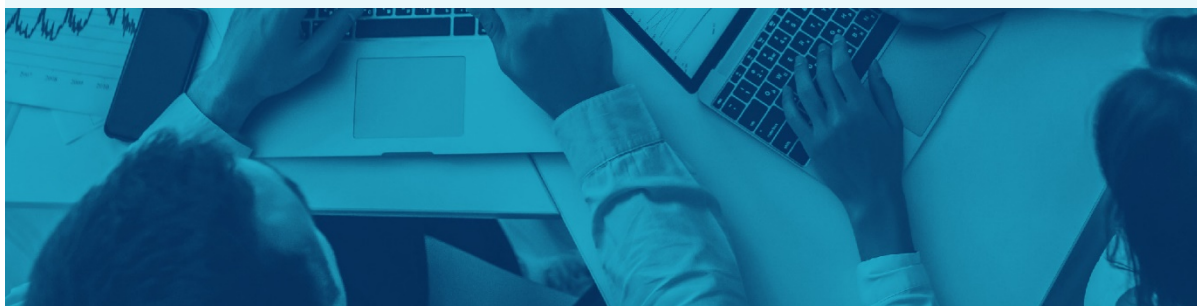
### **Nuisance marketing firms**

We have continued to act against nuisance marketing firms. The publicity generated by these fines, and our communications, highlight to the public what they can do to stop and report nuisance calls.

The work highlights the types of calls the public and vulnerable people could receive ranging from calls about funeral plans, home security, PPI and boiler replacement. We received 102,611 complaints from the public about Automated and Live calls. We have continued to investigate incidents reported by the Communication Service Providers' under Reg 5a, and investigated breaches of the DPA where issues have crossed both pieces of legislation. Investigations concluded led to us issuing seven Monetary Penalties, five Enforcement Notices, and 14 PECR 5a Penalties (year to date figures).

### Case study:

## Strategic Threat Assessment



### **Summary**

Our Intelligence Strategy to 2021 sets out how we use tactical and strategic intelligence to drive activity across the ICO. A key part of this is our new Strategic Threat Assessment, which is our most authoritative threat narrative, produced for the first time in 2019. This consolidates the importance intelligence has in shaping our regulatory work.

## Why this is important

The range of risks and opportunities encountered by the ICO continue to increase as technology advances and the growth of the digital economy presents us with data flows on an unprecedented scale. This requires us to effectively exploit existing information sources and explore new ones in order to develop a rich picture of the evolving information rights landscape. If we are to effectively uphold data protection rights for the UK public in the digital age, we must ensure we take an intelligence-led approach to deploying our resources. Our Strategic Threat Assessment allows us to do this.

## What we did

Our Strategic Threat Assessment draws on information and expertise from across the ICO, national and international stakeholders, media reports, academic research and information from the public, including through our complaints handling. We have enhanced the range of information available to us and therefore the potential to identify new issues quickly through developing new stakeholder relationships, updating our suite of Memoranda of Understanding and developing an internal network of 'Intelligence Champions'.

We analyse and assess this information and develop it into actionable intelligence. We have begun to make use of new risk assessment models in order to prioritise specific threats and theme areas. These threats and theme areas capture both existing threats and those that are approaching us on the horizon.

Our 2019 Strategic Threat Assessments identified threats about:

- cyber security;
- children and vulnerable adults;
- surveillance and associated technologies;
- Artificial intelligence;
- public sector digital transformation;
- advertising technology; and
- invisible processing.

For each area we explored more specific issues and made recommendations to cross-office colleagues about how to best direct our resources. In addition, we also conducted some broader horizon-scanning across topics not covered by the above list. However, this is an evolving process and new threats continue to be identified and existing threats refocused and redefined.

## What the outcomes were

We have produced two strategic threat assessments during this financial year. These have in turn been used to identify the three impacts and six priorities, set out earlier in the report.

We have developed a new Tasking and Coordinating process in order to identify, prioritise and track work about each priority area. We have used new High Priority Investigation processes to ensure enhanced resource, focus and governance for areas presenting greatest risk to UK individuals and organisations.

### **How this helped UK data subjects**

Through effective prioritisation we are able to focus on those areas presenting the greatest threat to UK data subjects and ensure our work has as wider impact as possible. Ensuring we make use of all information sources available to us in order to do this allows us to accurately capture views from individuals, businesses and other stakeholders, nationally and internationally to inform this decision making process.

### **Next steps**

This work continues and now forms a core part of the ICO risk assessment and prioritisation methodology. We plan to produce another full Strategic Threat Assessment during the 2020/21 financial year and will use this to continue to identify and support work in line with the ICO's Information Rights Strategic Plan and Regulatory Action Policy.

## **Involvement in litigation**

We continue to be involved in litigation through which the laws we regulate are clarified. For the decision notices we issue under section 50 of the Freedom of Information Act 2000, there is a right of appeal to the First-tier Tribunal (Information Rights) then possible appeals to the Upper Tribunal and higher courts. This year, for example, the Commissioner was actively involved in litigation before the Court of Appeal which involved determining the approach to be taken when a request for information to a public authority includes environmental information (as defined under the Environmental Information Regulations 2004).

In addition, this year the Commissioner has intervened in a number of court cases which had the potential for a significant impact on data subjects and the interpretation of the DPA 2018. These included:

- Intervening in an appeal before the Supreme Court against the lawfulness of the Home Secretary's decision to provide mutual legal assistance to the United States, without seeking an assurance that the information provided would not be used in a prosecution that could lead to the death penalty. The judgment was handed down by the Supreme Court on 25 March 2020,

and the Court unanimously concluded that in so far as the information provided constituted personal data, the decision was unlawful under the Data Protection Act 2018 on the basis that the Home Secretary had failed to give consideration to the necessary tests under the Act to ensure the protection of data subjects. (*Elgizouli v Secretary of State for the Home Department (Intervenors) ICO, Professor Heyns, the Death Penalty Project and Reprieve* [2020] UKSC 10).

- Intervening in a judicial review brought against South Wales Police over the use of Automatic Facial Recognition in public spaces to look for persons on a Wales-wide wanted list. The case is now under appeal to the Court of Appeal and is currently listed for a hearing in the Court of Appeal on 23-25 June 2020 (*R (on the application of Bridges) v The Chief Constable of South Wales Police and the Secretary of State for the Home Department (interested Party) ICO (Intervener), (Surveillance Camera Commissioner) – [2019] EWHC 2341 (Admin)*). This is linked to our opinion on Live Facial Recognition, referred to earlier in the report.
- Intervening in a judicial review brought by two campaign groups against the Government challenging the lawfulness of the Immigration Exemption in the DPA 2018. As the independent statutory regulator under the DPA, and the supervisory authority for the United Kingdom under the GDPR, the Commissioner has a direct interest in the outcome of this claim and intervened (with the consent of the parties) to assist the Court on the legislative framework for data protection. The matter is currently under appeal at the Court of Appeal. (*The 3million and Open Rights Group v The Secretary of State for the Home Department and The Secretary of State for Digital, Culture, Media and Sport (Intervenors) Liberty and ICO*) [2019] EWHC 2562 (Admin)).

## Section 5: Supporting the public sector

The ICO has a clear focus on supporting organisations to comply with the law. This is reflected in the way we are invited to offer our expertise to the public sector, from supporting digital innovation in the health sector to working constructively on complex areas with the police.

Central to this work is ensuring that these services maintain the public's trust in how their data is used, shared and kept safe.

### Promoting transparency in the public sector

In June 2019 we launched our new Freedom of information strategy, Openness by Design following a public consultation. The strategy sets out five goals that directly link to our Information Rights Strategic Plan (IRSP) and our Regulatory Action Policy (RAP). The strategy sets out how we work to create a culture of openness in public authorities through casework, guidance and promoting good

practice. It also makes clear that, where necessary, we will take action to enforce access to information rights where we see they are not being upheld.

Openness by Design also commits us to making the case for legislative reform to improve transparency in the public sector, as set out in our Outsourcing Oversight? report published last year. Our focus here will be about building a debate about the importance of openness and transparency as a fundamental part of a healthy, functioning democracy.

### **Chairing the International Conference of Information Commissioners (ICIC)**

The Information Commissioner chairs the ICIC, where she brings a focus on embedding governance processes stemming from the 2019 ICIC Charter (introduced during the Commissioner's tenure as Chair); developing the ICIC's strategic priorities; and establishing the long-term sustainability of the network via a Funding Working Group.

### **Using audits to prompt change in the public sector**

We conducted 57 **consensual** data protection audits and follow-up audits across a range of sectors. The findings of these audits are published on our website<sup>11</sup>.

We also completed **compulsory** audits under Assessment Notice of seven political parties. These audits were conducted following our Democracy Disrupted report from July 2018. We provide individual audit reports to each party. We also completed a compulsory audit of the Crown Prosecution Service (CPS), which resulted in recommendations that the CPS agreed to implement. We will conduct follow-up audits of the CPS and the seven political parties during 2020/21 to ensure our recommendations have been actioned appropriately.

In addition, we conducted a data protection audit of HMRC, which incorporated a review of HMRC's response to the actions mandated by an Enforcement Notice issued to HMRC in May 2019 (referred to earlier in the report). The audit concluded that the ICO was satisfied with the approach taken by HMRC to meet the requirements of the Enforcement Notice. Further information about this audit is available on our website.<sup>12</sup>

In terms of our responsibilities under the Investigatory Powers Act (IPA) we completed audits of all telecommunications operators subject to data retention notices requiring them to retain communications data under Part 4 of IPA. These audits assessed compliance with requirements of IPA for the integrity, security or destruction of data retained, and we provided individual reports to each

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<sup>11</sup> <https://ico.org.uk/action-weve-taken/audits-and-overview-reports/>

<sup>12</sup> <https://ico.org.uk/action-weve-taken/audits-and-overview-reports/her-majestys-revenue-and-customs-hmrc/>



telecommunications operator. We will provide the Home Secretary with a more detailed report about our responsibilities in this area.

## Section 6: Delivering the ICO service experience

This year we have seen a continued high demand for ICO services.

Since the implementation of the GDPR and DPA 2018 in May 2018, the total number of contacts we've received from the public has increased by almost 70%, the number of data protection complaints received from the public has doubled and the number of personal data breaches reported to us has more than tripled.

This section of the report provides information about how we have worked to continue to provide high quality public services to all ICO customers. It is then followed by our operational performance annex, which provides a series of graphs setting out our overall activity levels and outcomes.

### **Providing reliable and responsive frontline advice services**

In last year's Annual report, we outlined a range of service-focused changes that would be implemented across the ICO with an overarching aim to better integrate and focus the way we work, so that we can provide reliable and responsive services to our customers.

Part of our plan was to integrate our general advice and data protection complaint services for the public. We have expanded this service and ensured that staff have developed more detailed knowledge of FOIA and PECR, as well as on data protection. This will allow us to better support demand from members of the public who contact us seeking advice about information rights or who wish to raise a data protection complaint about an organisation that we regulate or both.

Through our new Business Services function, we have begun to improve and better connect the ICO services that are most relevant to organisations, including our Business Advice, Personal Data Breach and DP Fees services. This will help us provide a more accessible, responsive and supportive service to this customer group.

Demand for these services continues to increase and as at 31 March 2020 we employed over 250 members of staff who directly help customers through our helpline, live chat, email and complaints handling services. By restructuring our public advice and business advice services it is enabling us to focus on the specific needs of our different customers, and to develop distinct areas of expertise for our staff.

We are also improving our technology. We have improved our online complaints form, so customers can attach supporting documents to it when they submit a complaint, we have developed our live chat service and made it available to

more customers and we are working to make paying the data protection fee quicker and easier.

Next year we want to fully explore the benefits AI can bring, making our services more accessible, whilst enabling customers to perform more complex tasks for themselves.

We established these changes in February 2020. Early indications are that the increases in capacity and capability means we are better able to provide reliable, high-quality and more responsive services to all our customers. We will monitor this as we continue to develop in 2020.

## **Dealing with high numbers of public complaints**

### **Data protection**

As our lives become increasingly digital and the public's awareness of their individual rights to privacy grows, the trend for making complaints to the Information Commissioner has increased over time. This is positive, and demonstrates the impact of our efforts to raise awareness of individual rights and shift in our position from an ombudsman to an enforcer of the law.

Our strategic aim is to improve the quality of information rights practices across the private, public and third sector, ensuring that complaints and complainants remain the responsibility of the organisation concerned. When complaints are made to us, it is in effect a member of the public reporting to us that they believe a data controller is "breaking the law", not the ICO providing an additional review or appeals process, similar to the services provided by an ombudsman.

Complainants often tell us that they bring complaints to us when they do not have confidence in how a data controller has handled their data; and when data controllers fail to fully explain to complainants how they have arrived at a decision, understandably the public turns to the regulator.

During 2019/20, we resolved 39,860 data protection complaints cases.

In around half of the cases that we looked at in 2019, we found that there was more the data controller could have done to either improve their information rights practices, or explain in a more comprehensive way how they are complying with their legal obligations. Consequently, this year we have asked data controllers to revisit concerns and do more to assure themselves and complainants that they are complying with their obligations under the law.

Whilst we cannot yet attribute a significant reduction in complaints being received to the ICO to this approach, we hope that in time, members of the public will see improvements in how their information rights complaints are handled by data controllers and that this improved experience will result in a fewer complaints being received. As a result of this approach, we have seen



evidence of compensation being awarded to complainants, complaints processes being overhauled, and good engagement across the vast majority of sectors.

As part of the data protection complaints process, we have also this year routinely provided information and advice to data controllers so that they can improve their practices. We have monitored performance when we have identified trends or multiple complaints received about a data controller, and where compliance has been consistently poor, or we have identified a serious breach, we have taken steps to enforce compliance, in line with the ICO's Regulatory Action Policy.

### **Freedom of information**

This year we dealt with 6,421 FOI complaints, up 128 cases on the number of cases closed in 2019/20.

Over the last 12 months, our focus has been to continue to strengthen and build on the efficiencies and service improvements made last year and to further reduce both the volume and age profile of cases.

A new digital portal for the complaint submission process has allowed customers to clearly see what documentation is required before a matter can be progressed and will further assist in reducing the number of complaints that are lodged too early.

We have also made several changes and improvements in our case handling process, updating our case handling service guide and introducing an early resolution mechanism to bring down caseload age.

We have highlighted significant freedom of information decision notices on the ICO's social media platforms, using #everydayfoi to promote information access as an everyday right. We also began publishing information notices on our website<sup>13</sup>, demonstrating to the public the action we are prepared to take to investigate their complaints.

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<sup>13</sup> <https://ico.org.uk/action-weve-taken/information-notice/>

# Annex: Operational performance

## Data protection complaints

Last year, we reported on the significant increase in data protection complaints we received as the public became more familiar with their information rights and the implications and obligations that come with the GDPR. This level of engagement held steady in 2019/20. We received 38,514 data protection complaints, slightly lower than the 41,661 from last year.

We closed 39,860 cases (up from 34,684 in 2018/19), reducing our caseload from 9,503 in March 2019 down to 7,987 in March 2020. We increased the number of operational casework staff and redeployed some of our existing resources to achieve this.

Given that we started the year with a caseload of 9,503, we knew that achieving our timeliness targets in 2019/20 would be a significant challenge. We therefore focused on key areas that would help streamline our service, improve the 'customer experience' through better self-help digital tools and reduce the number of complaints sent to us too early.

Whilst we have closed a record 39,860 cases and have reduced our caseload to a more manageable 7,987; we unfortunately have not been able to meet our target of 80% of cases being resolved within 12 weeks, achieving 74% for 2019/20. We have however been able to resolve over 98% of complaints within our six-month timeliness target.

For 2020/21 our aim is to reduce our caseload further, bringing this below 7,000 and maintaining this where we can. By multi-skilling our Public Advice and Data Protection Complaints teams, we will have the flexibility to deploy our resources where necessary to achieve our 12 week casework timeliness target, whilst at the same time providing a more responsive service to the public who contact us via telephone, live chat or email.

## Freedom of information complaints

This year we received 6,367 Freedom of information complaint cases, compared to 6,418 in 2018/19.

Despite these ongoing high case volumes, we have been able to keep pace, closing 6,421 cases during the year, an increase from last year's figure of 6,293. This means that in 2019/20 we exceeded our FOI timeliness target (to close 80% FOI complaints within six months), by closing 88% of complaints within six months.

We issued 1,446 statutory decision notices this year. Each party to a decision notice has the right to appeal the decision to the First-tier Tribunal (Information

Rights). There has been an increase in the number of decision notices being appealed, from 17% in 2018/19 (246) to 22% in 2019/2020 (311).

However, whilst there has been an increase in appeals to the First-tier Tribunal, 77% of appeals have been successfully defended during 2019/20, the same success rate as 2018/19.

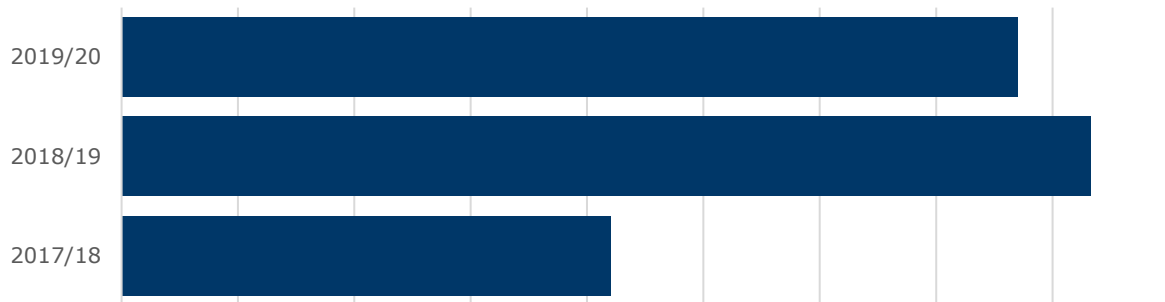
## Advice services

Following a busy GDPR implementation year in 2018/19, volumes of enquiries from organisations and members of the public have remained high. Our answer rates on our helpline and written advice services have improved, showing that we are well-placed to meet this level of demand for our service.

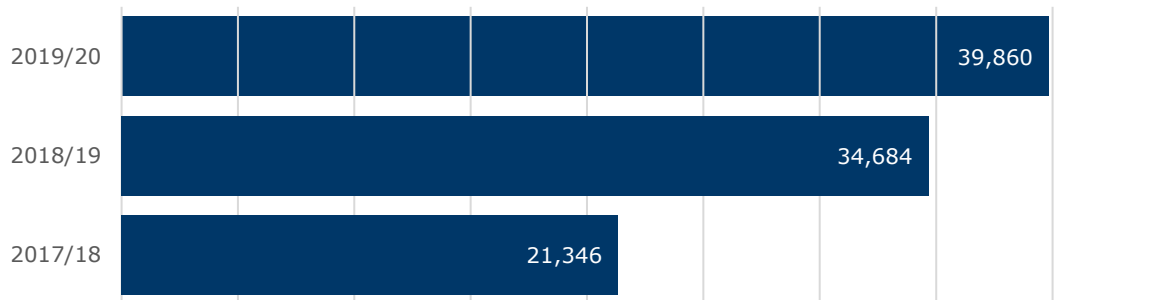
Although there has been a drop in our live chat answer rate, this reflects a change to the way we provide the service. In 2019/20 we implemented a new live chat platform which allowed customers to queue to chat. Although this meant some customers waited longer to chat than before, it also significantly increased the amount of people who have been able to use this service.

## Data protection complaints

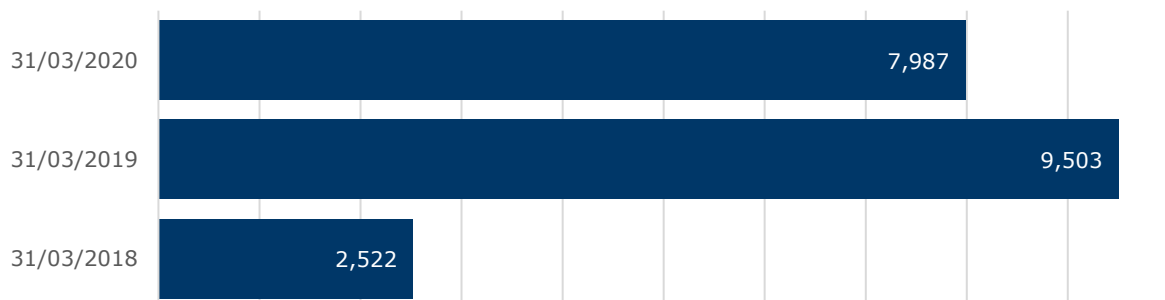
DP complaint casework received



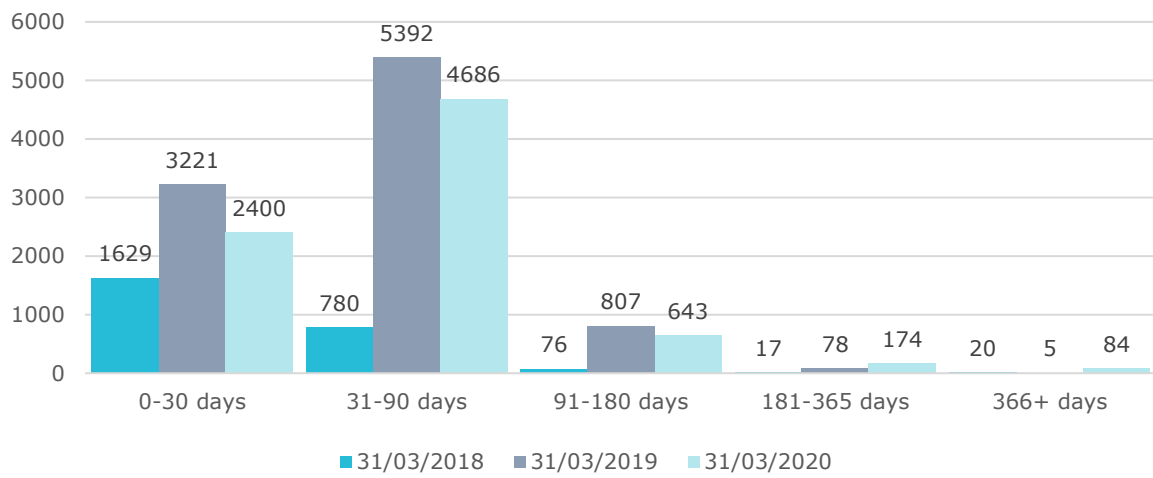
DP complaint casework finished



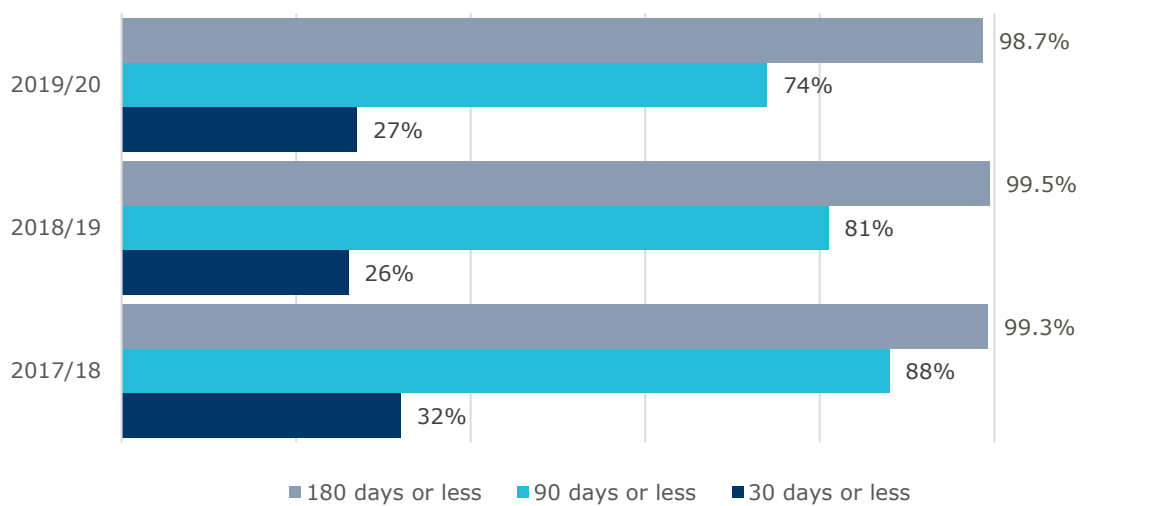
Caseload



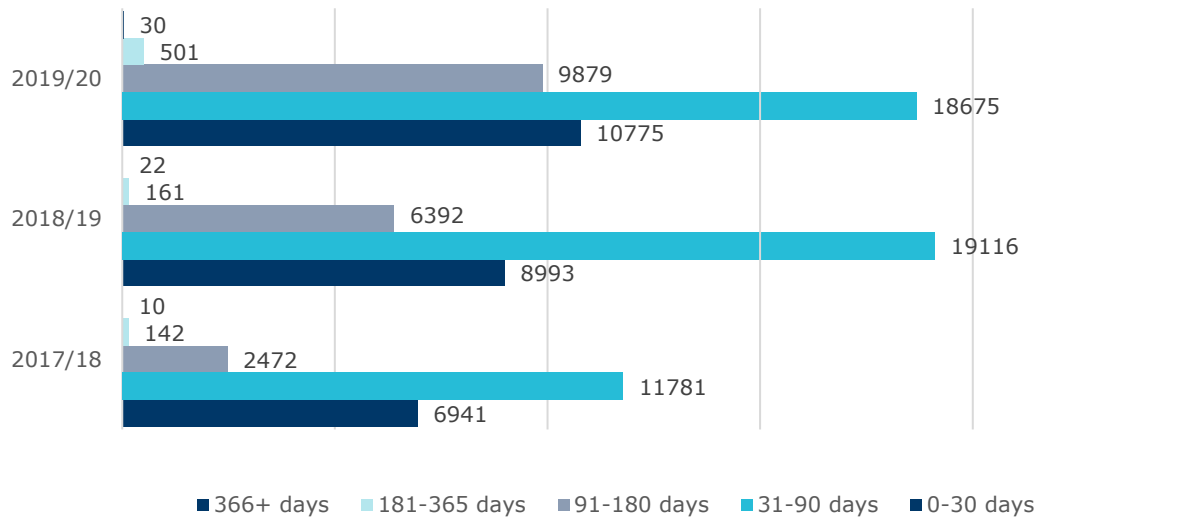
### Age distribution of caseload



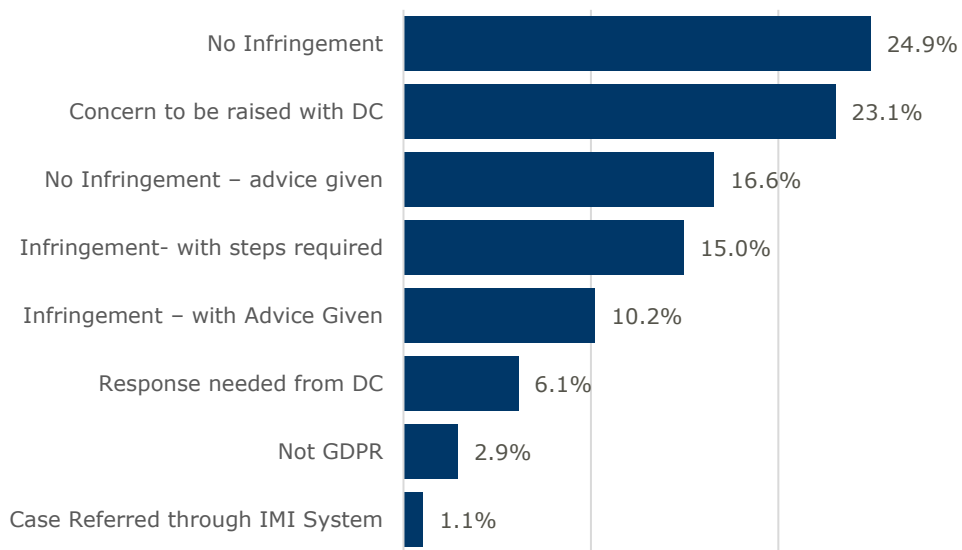
### Age distribution of finished casework



### Age distribution of finished casework

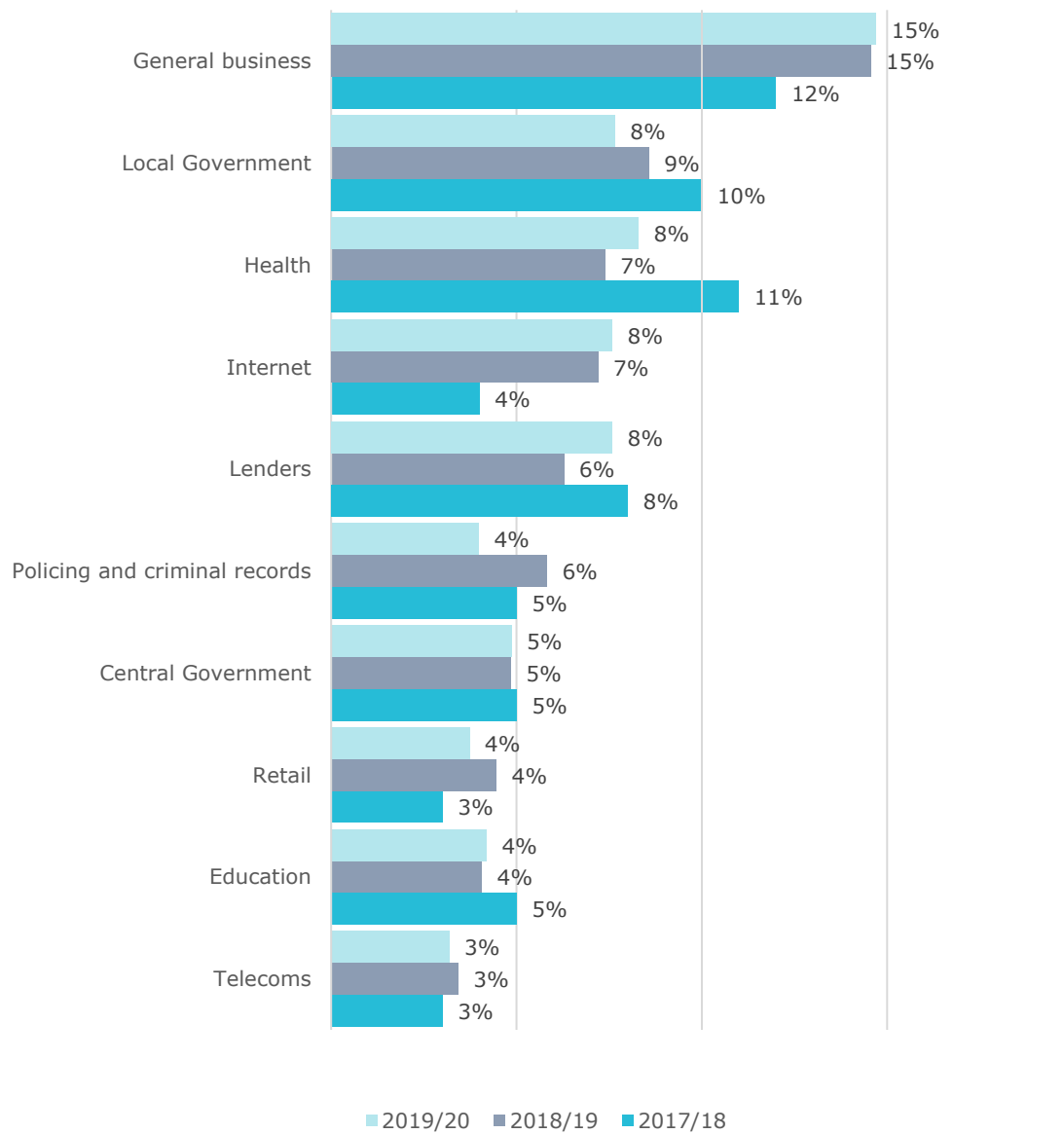


### Outcomes 2019/20

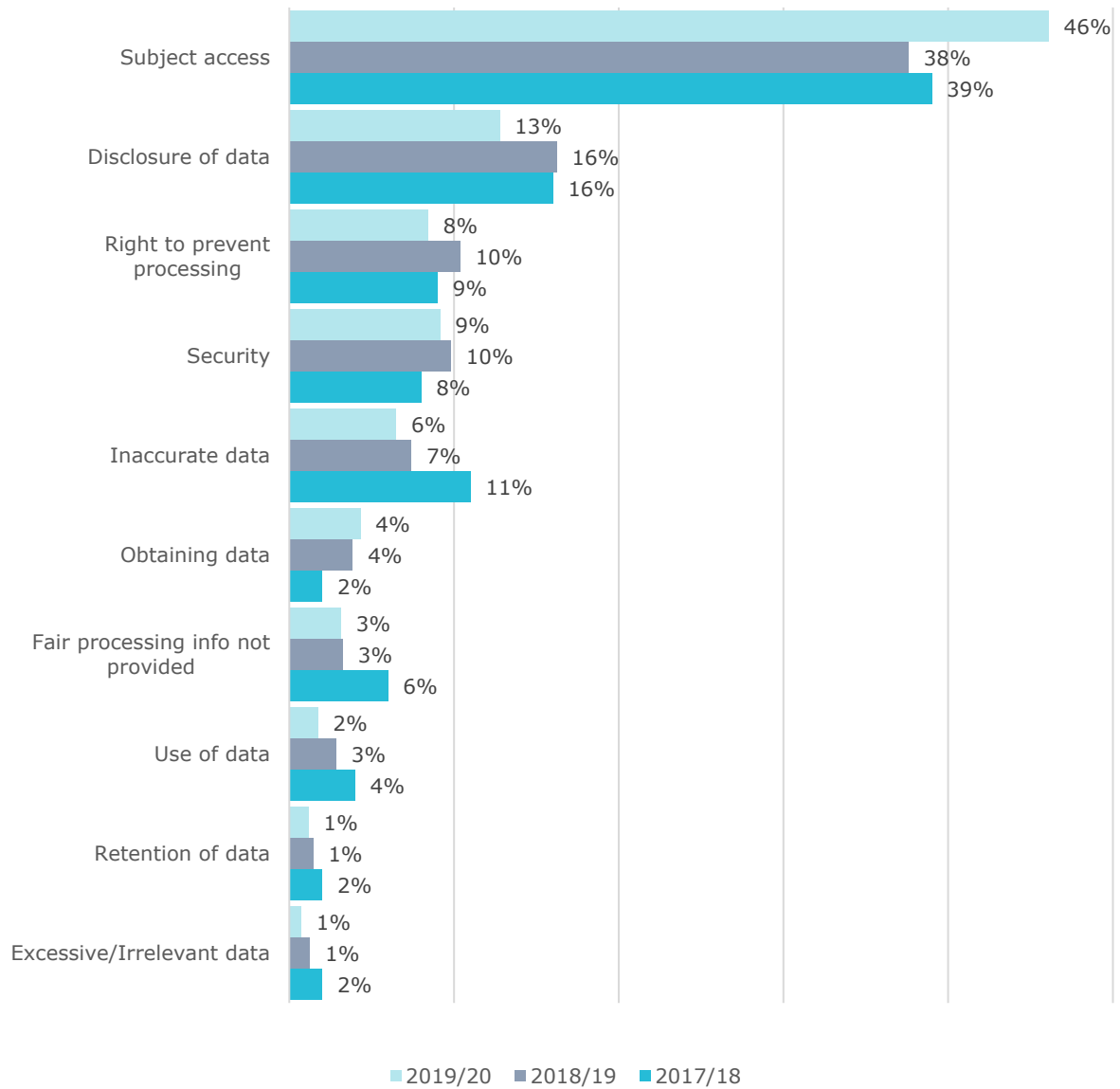


Casework finished with the following outcomes - administrative fine, no order made, compliance audit recommended and enforcement notice served represented 0.1% of the total.

### Sectors generating most complaints



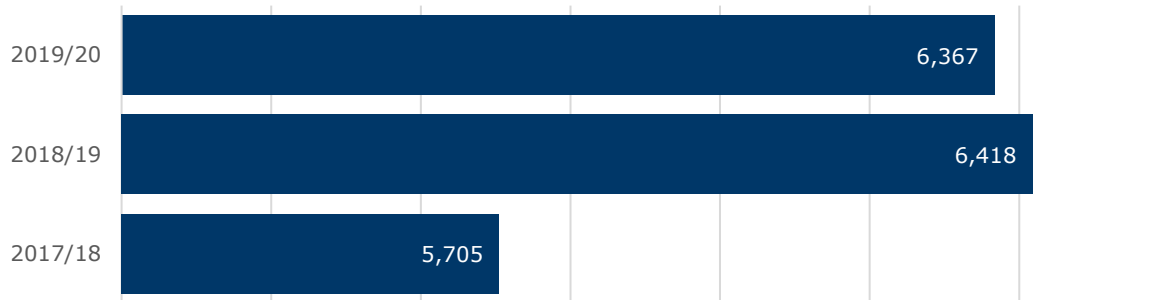
### Reasons generating most complaints



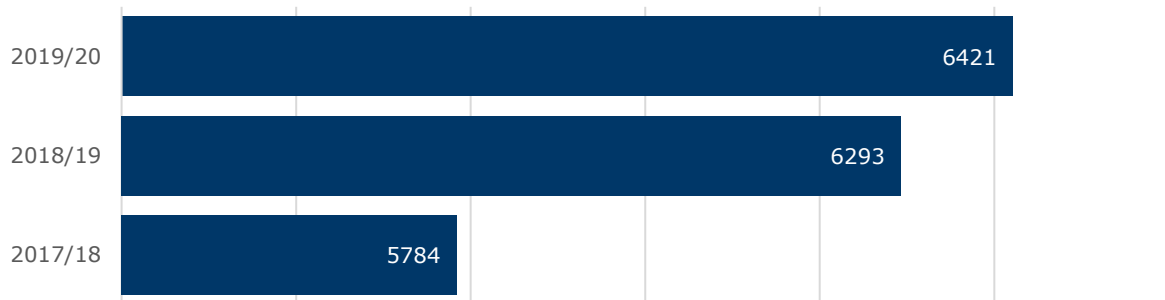


## Freedom of information complaints

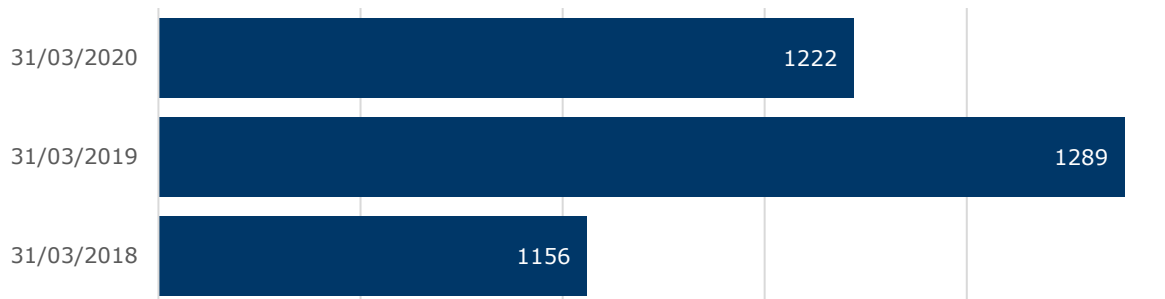
### Received



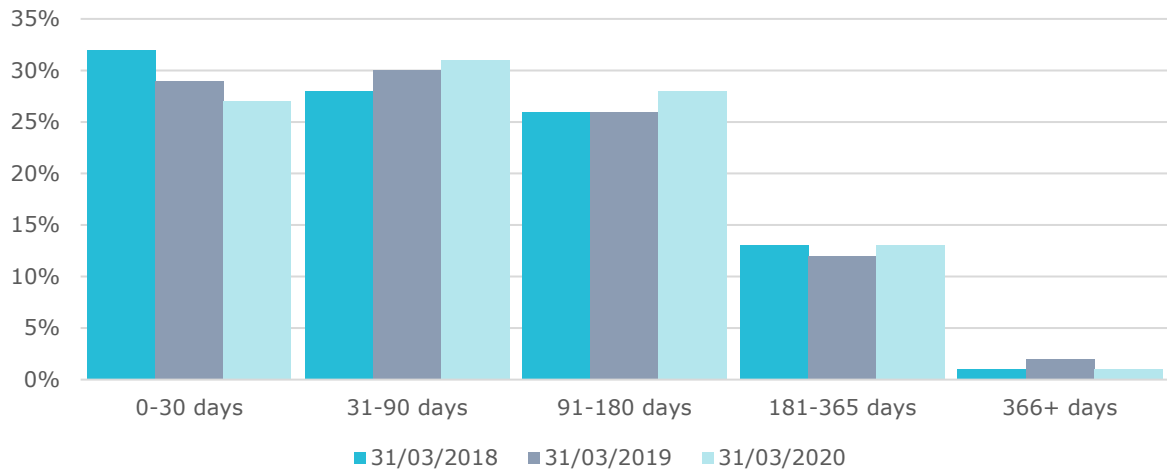
### Finished



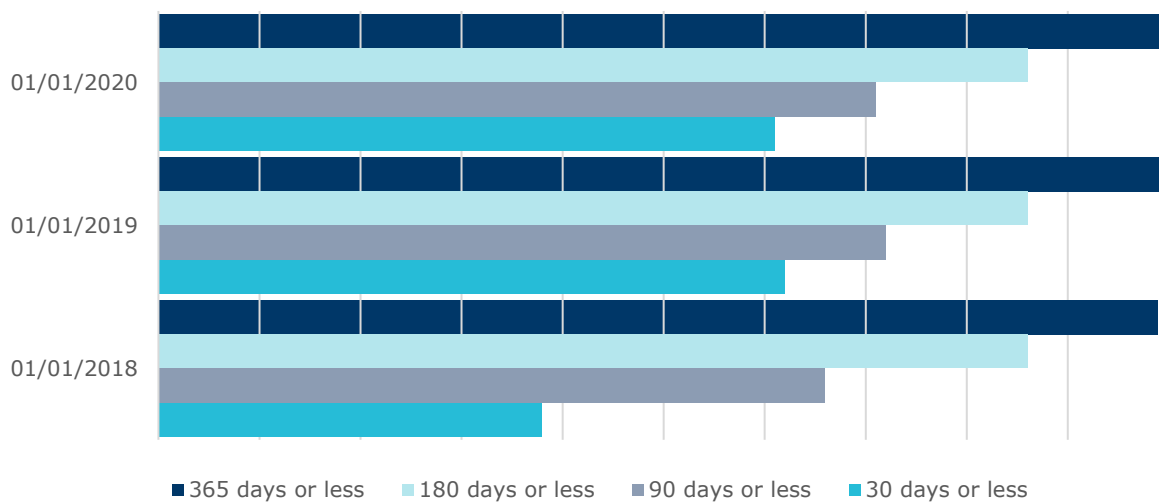
### Caseload



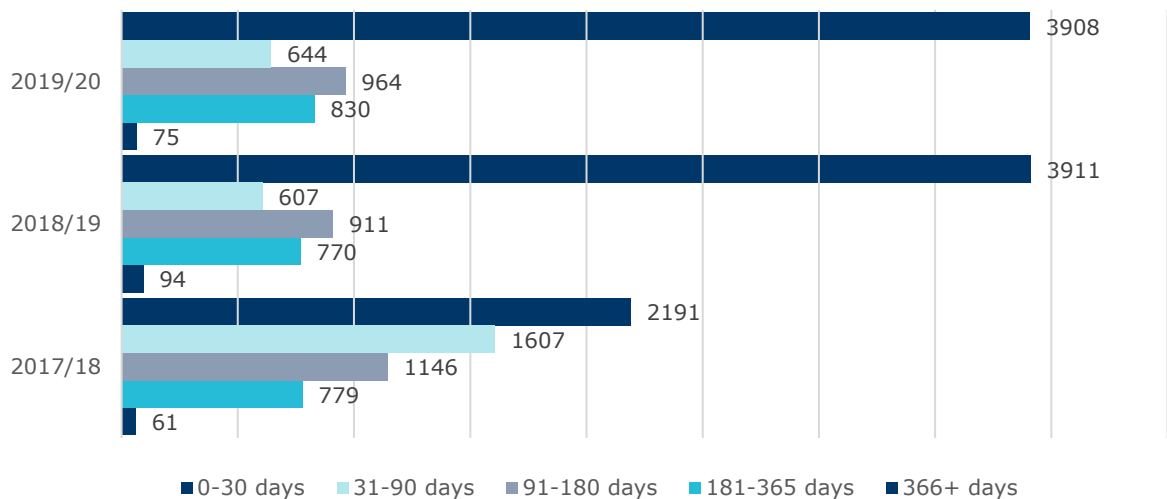
Age distribution of caseload %



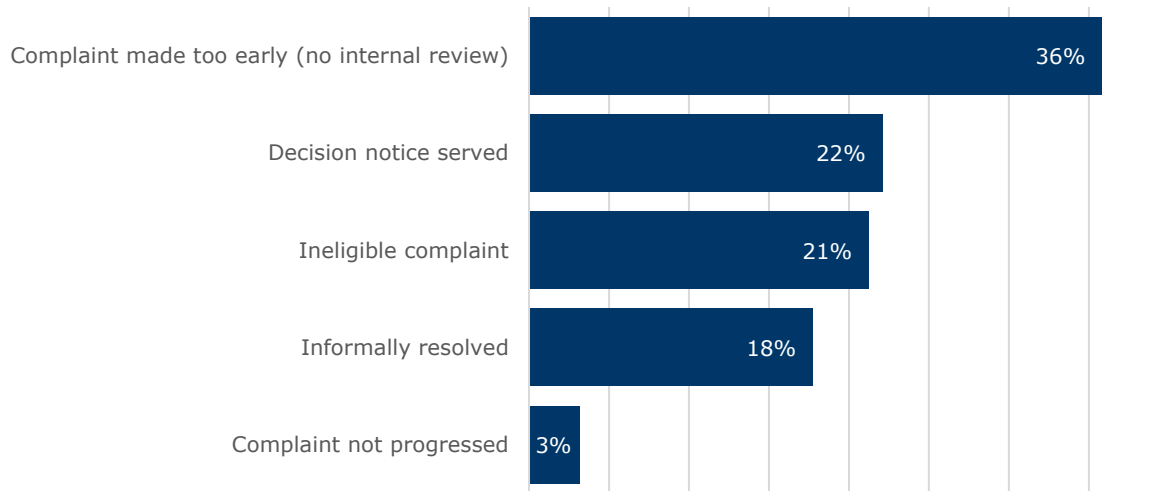
Age distribution of finished casework %



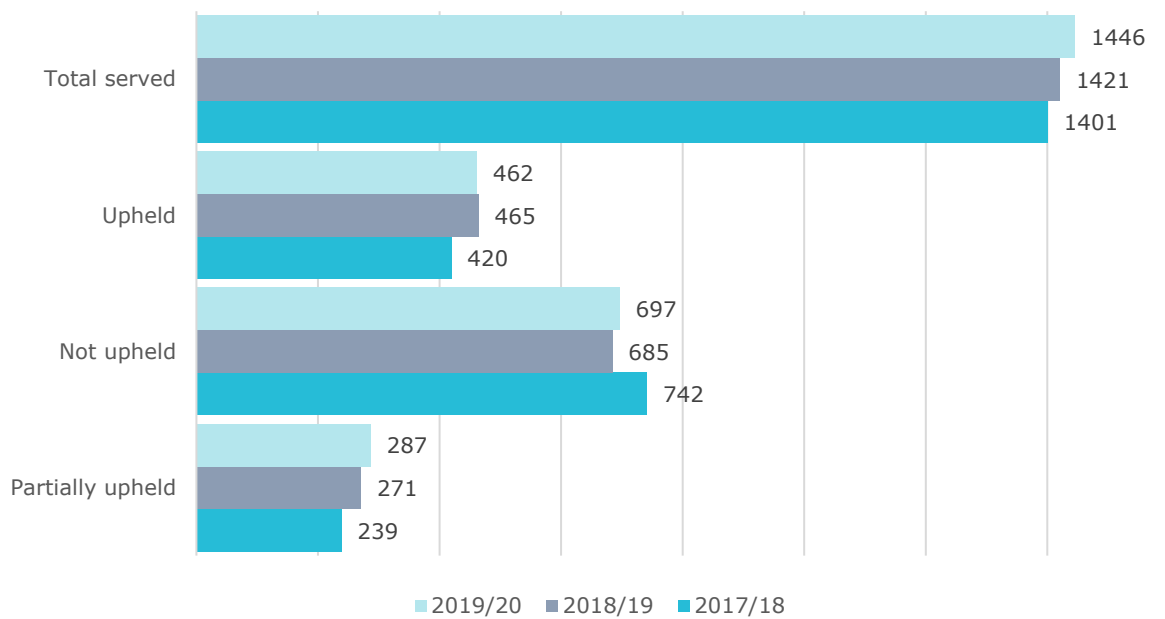
Age distribution of finished casework



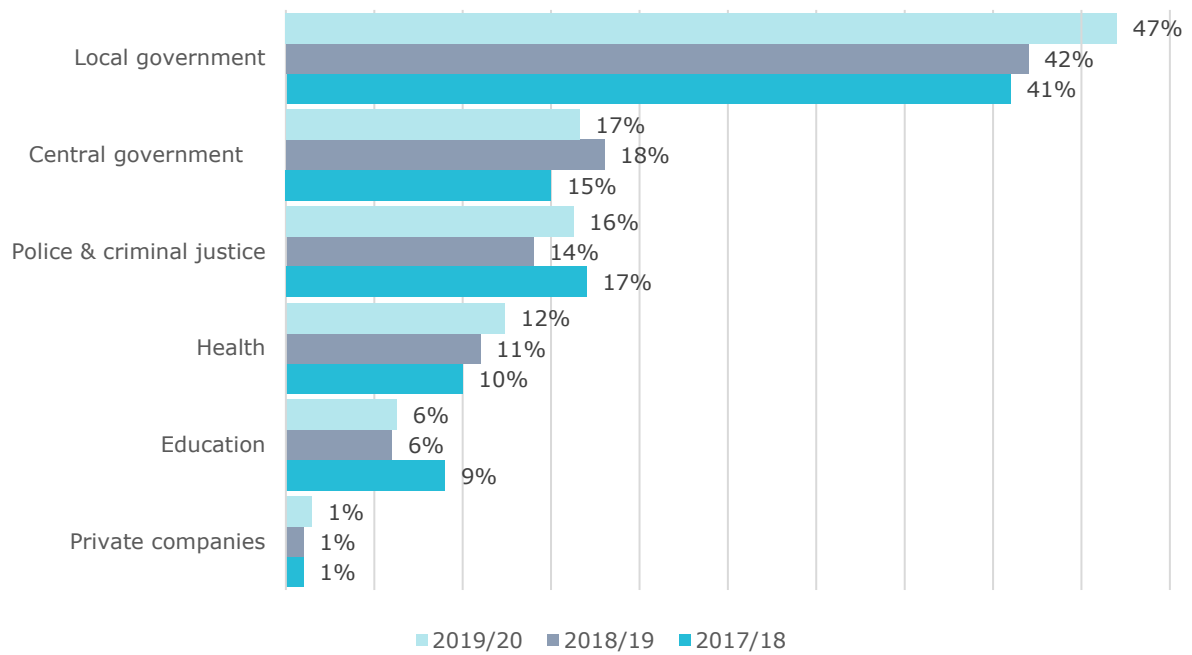
### Outcomes 2018/19



### Outcome of a complaint casework where a decision notice is served



### Sectors and reasons generating most complaints



### Freedom of Information appeals

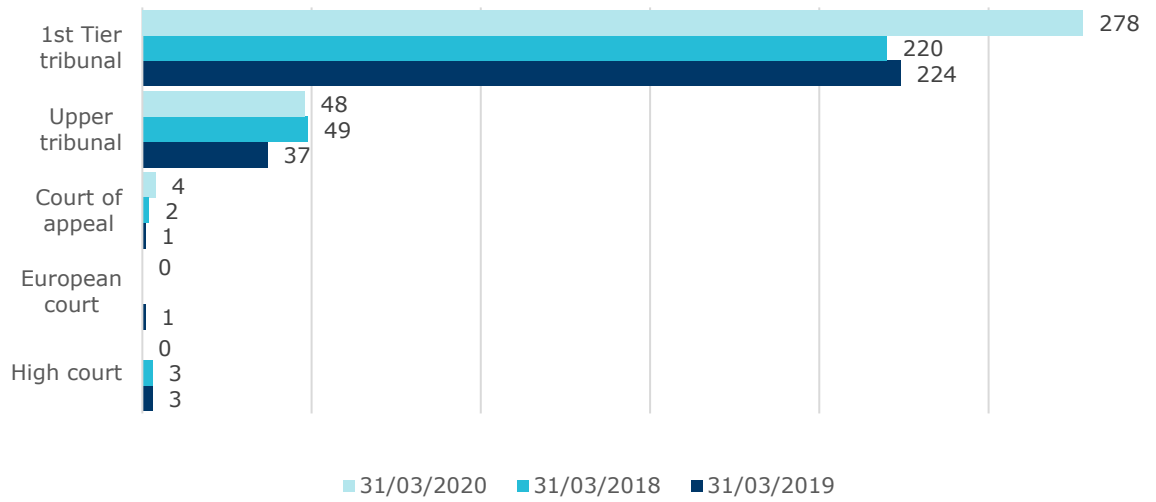
#### Received



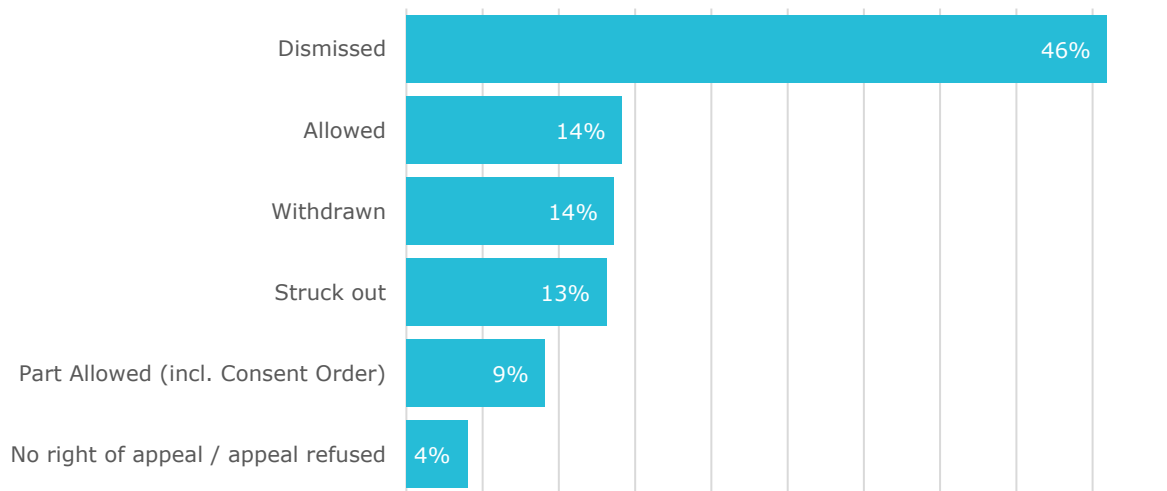
#### Finished



### Caseload

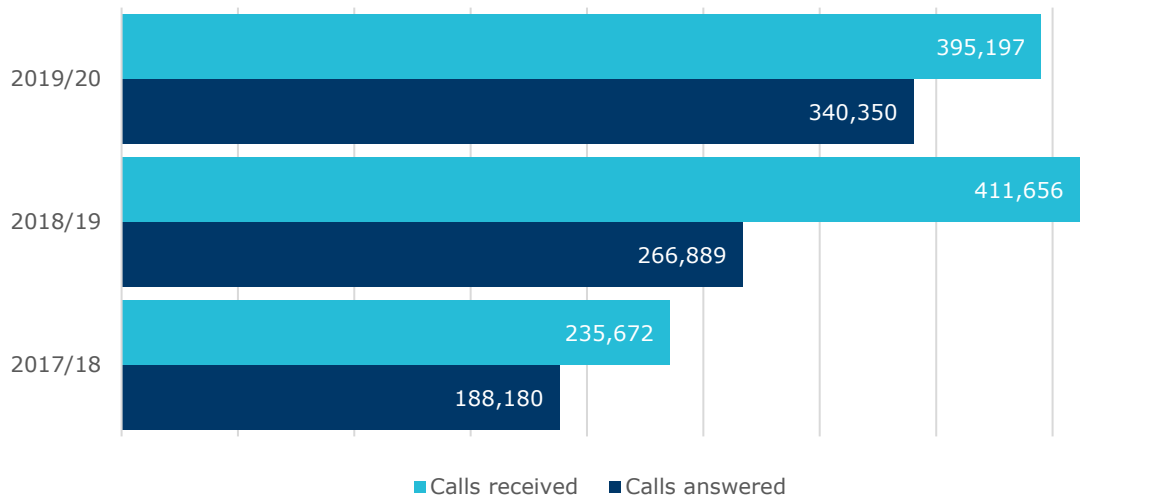


### Outcomes of appeals finished 2018-19

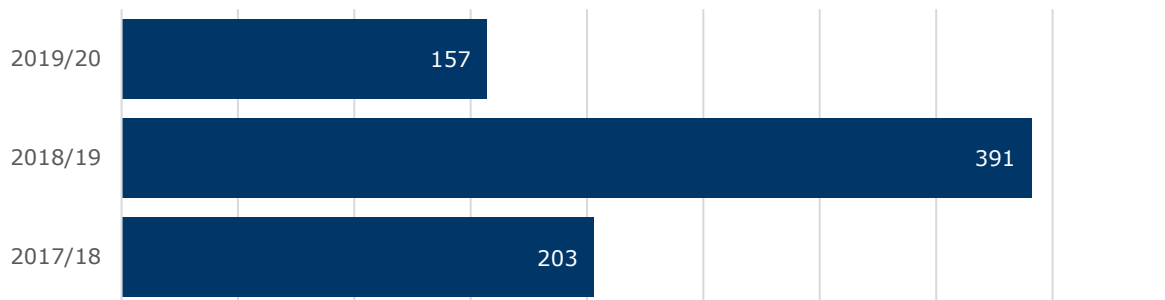


## Advice Services

Calls to the helpline



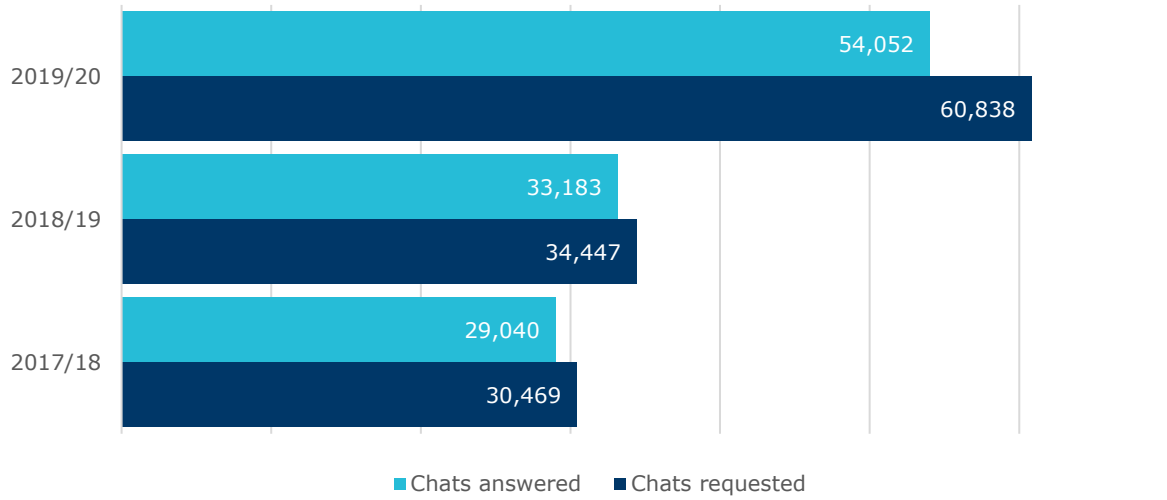
Call answer rates - Average wait time (seconds)



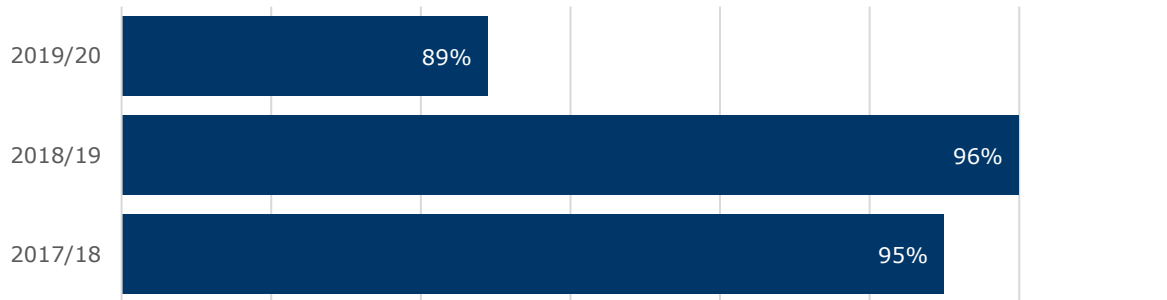
Call answer rates - Percentage answered



### Live Chat



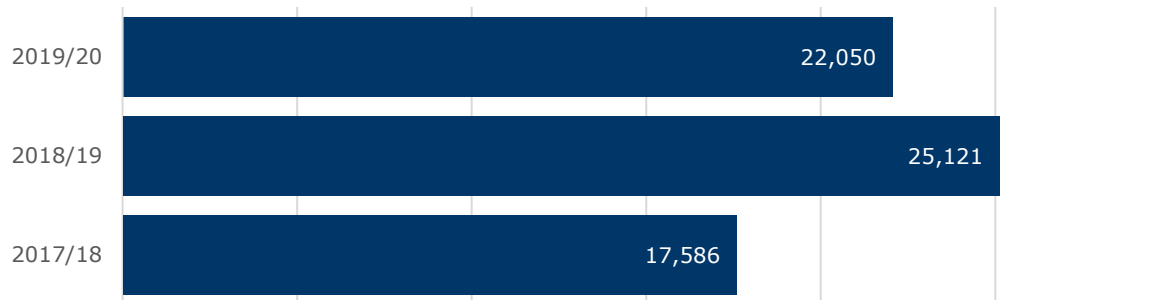
### Chat answer rates - Percentage answered



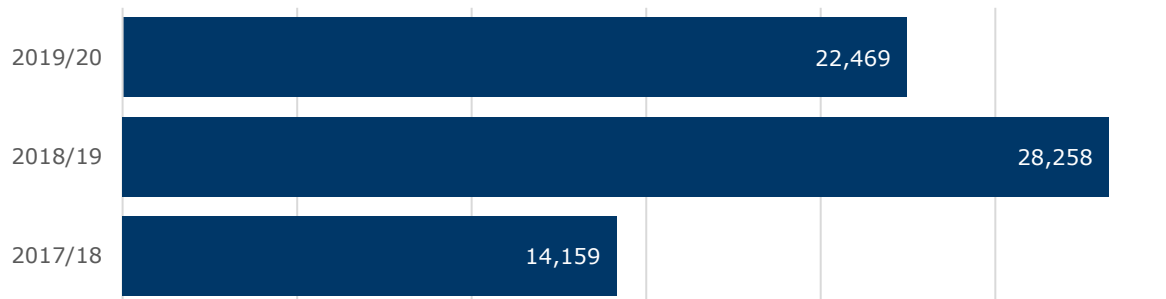
### Chat answer rates - Average wait time (seconds)



### Written advice - Received



### Written advice - Finished

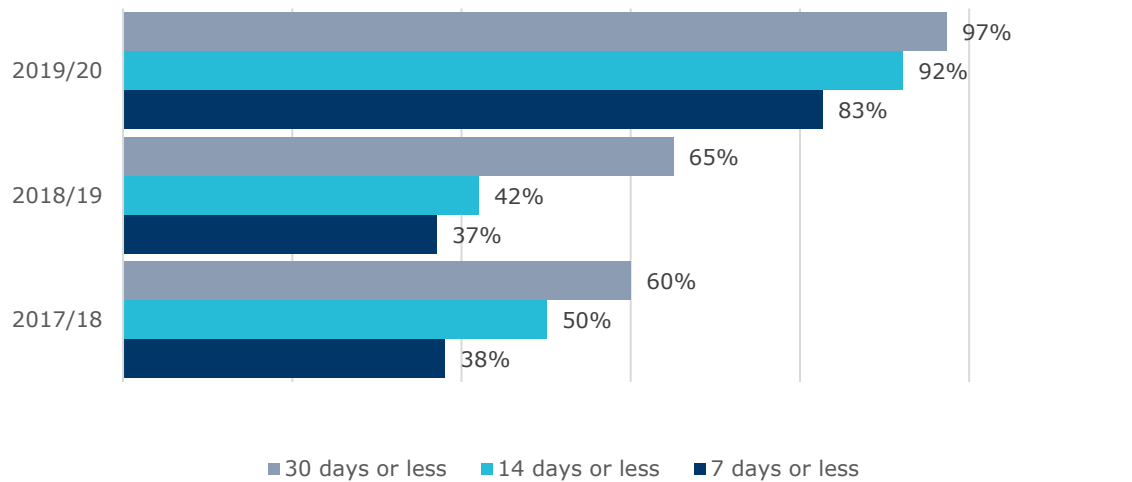


### Written advice - Caseload

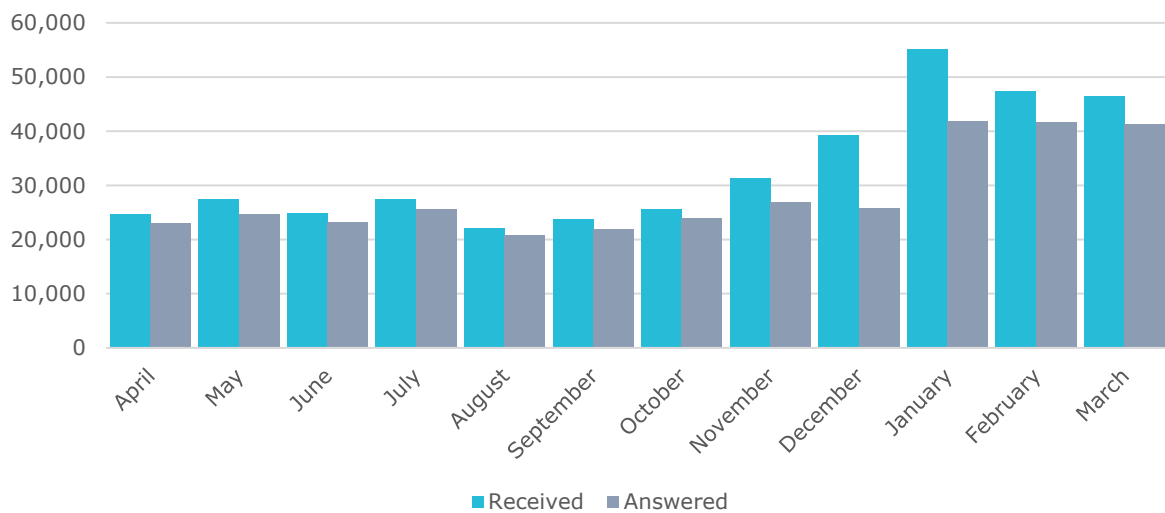




### Age distribution of finished advice work



### All Helpline calls 2019/20

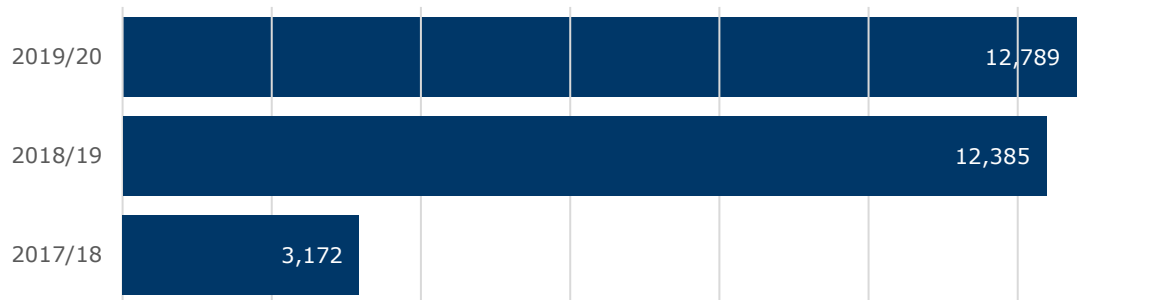


### Personal data breaches

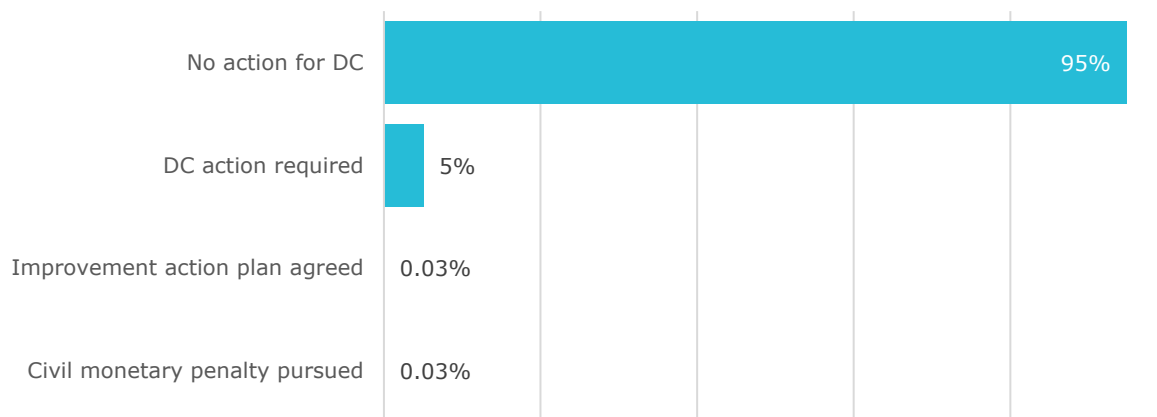
#### Personal Data Breaches - Received



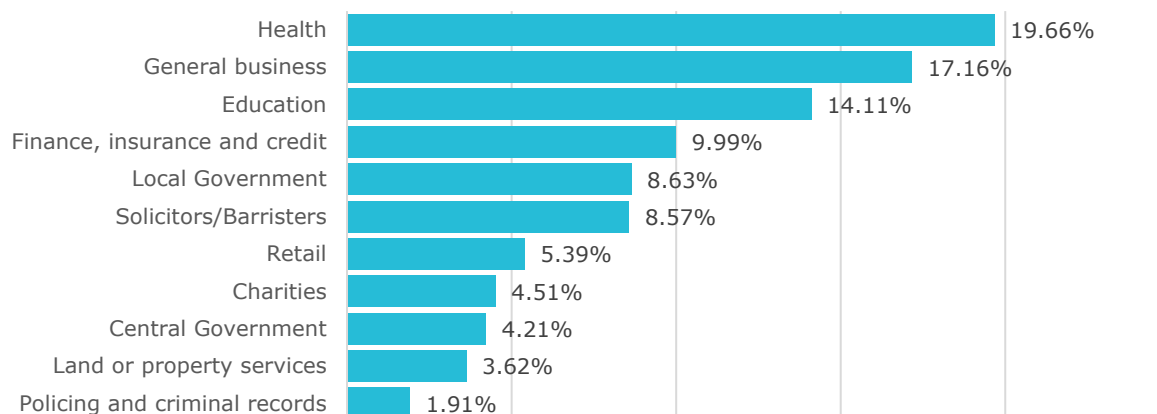
### Personal Data Breaches - Finished



### Personal Data Breaches - Outcomes



### Sectors generating most PDB

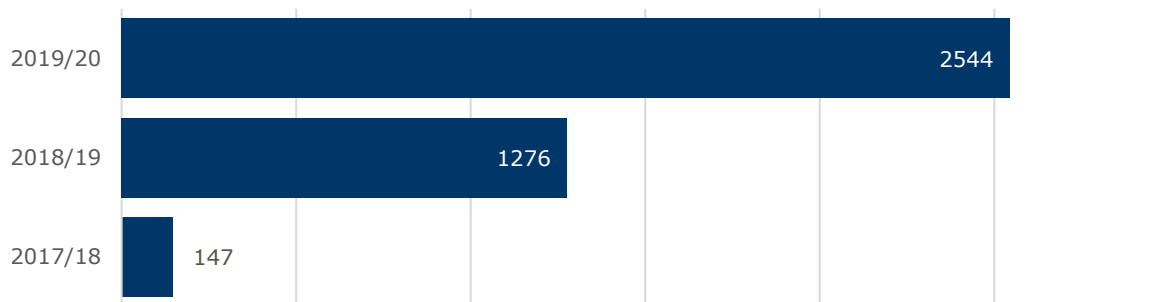


## PECR concerns

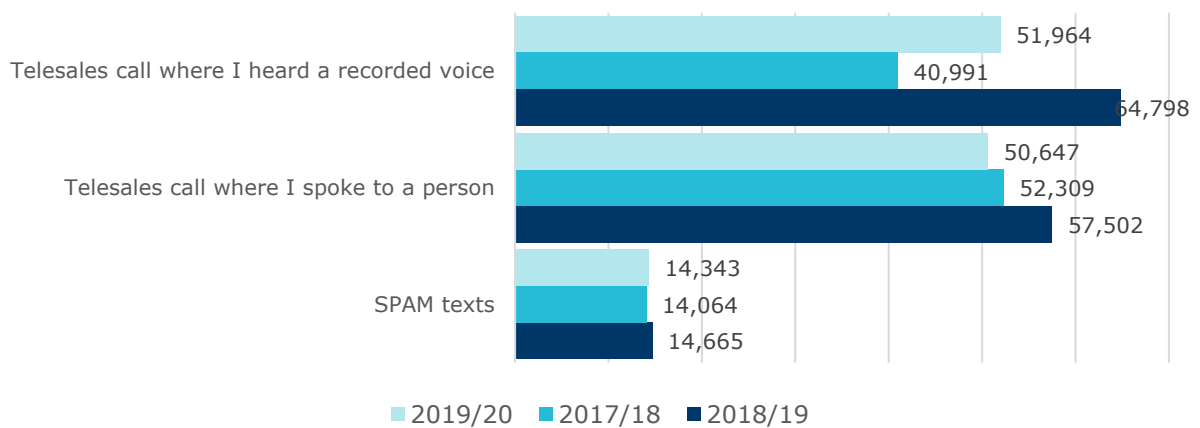
PECR Concerns - Concerns reported



PECR Concerns - Cookie concerns reported

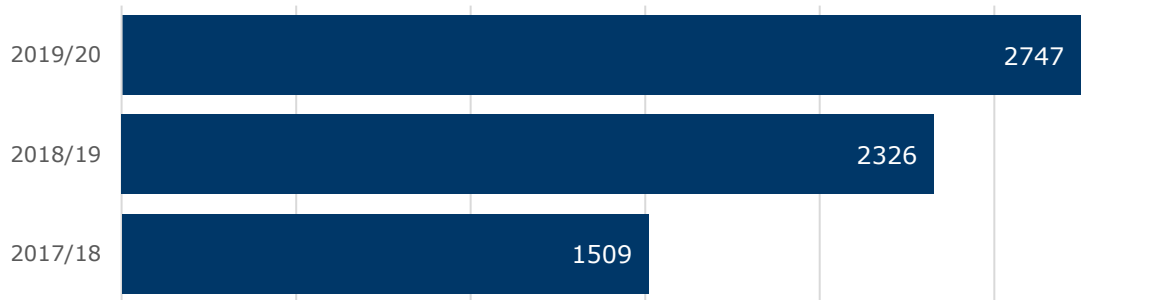


Nature of telesales and SPAM texts reported

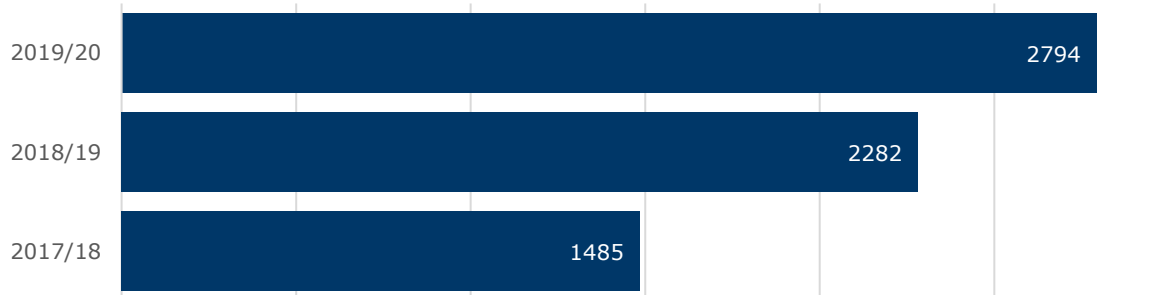


## Information Access

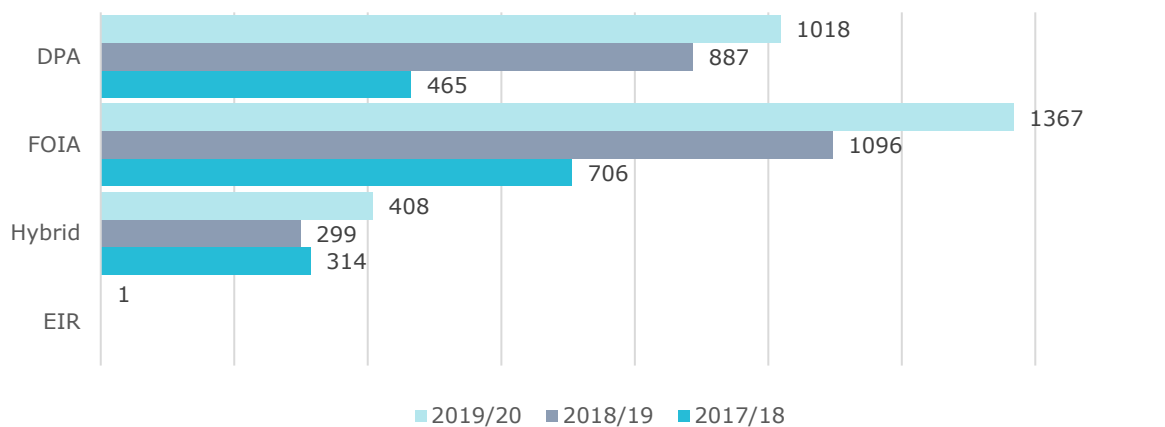
Information Access - Requests received



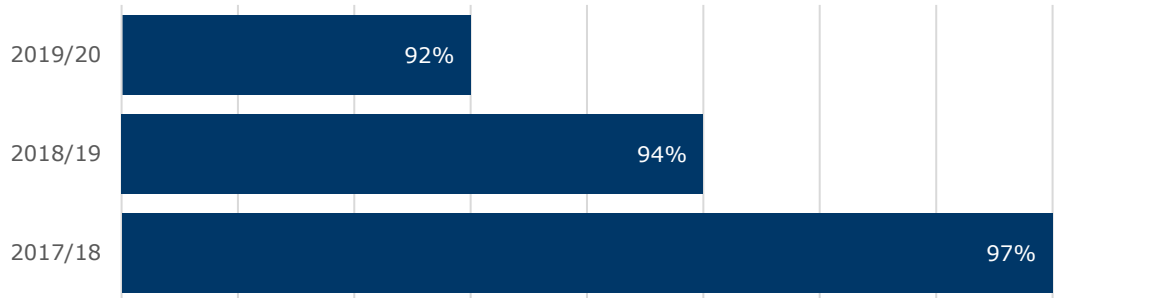
Information Access - Requests completed



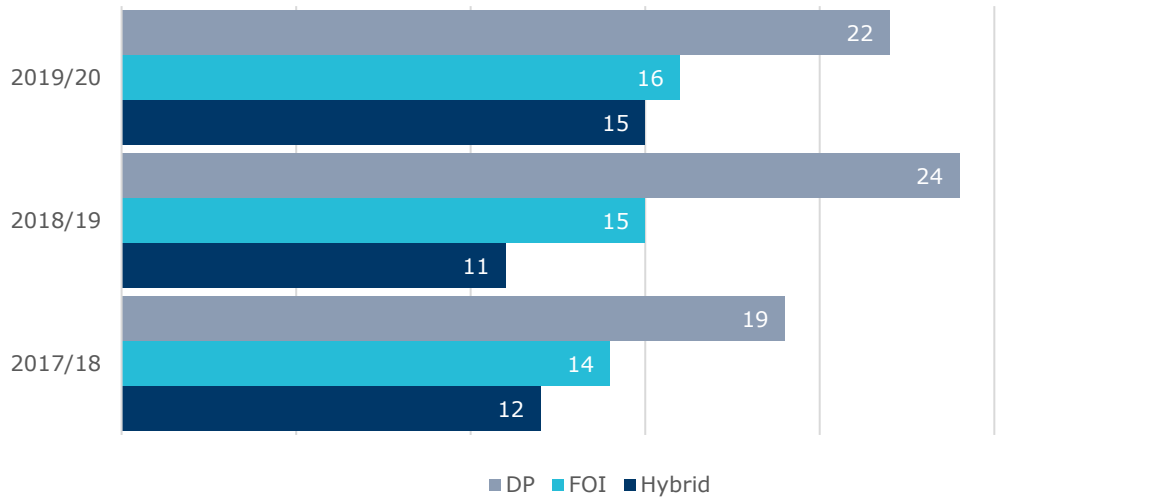
Information Access - Requests by legislation



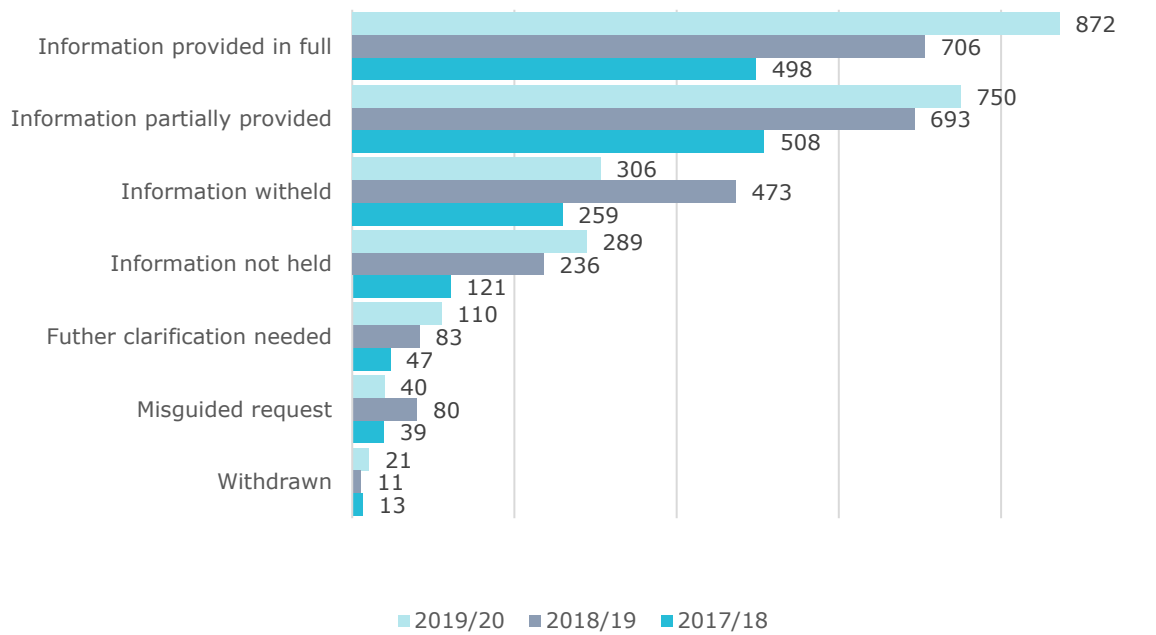
### Response times - Time for compliance



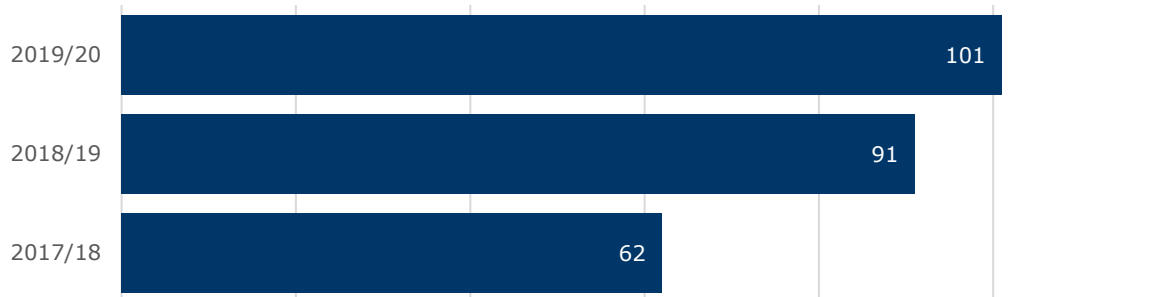
### Response times - Average time (days)



### Request outcomes

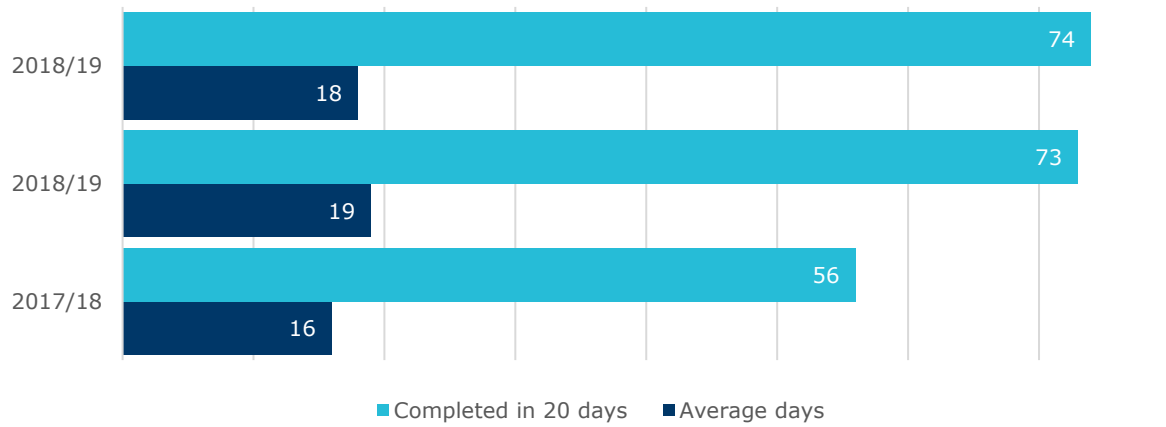


### Internal reviews - Reviews completed

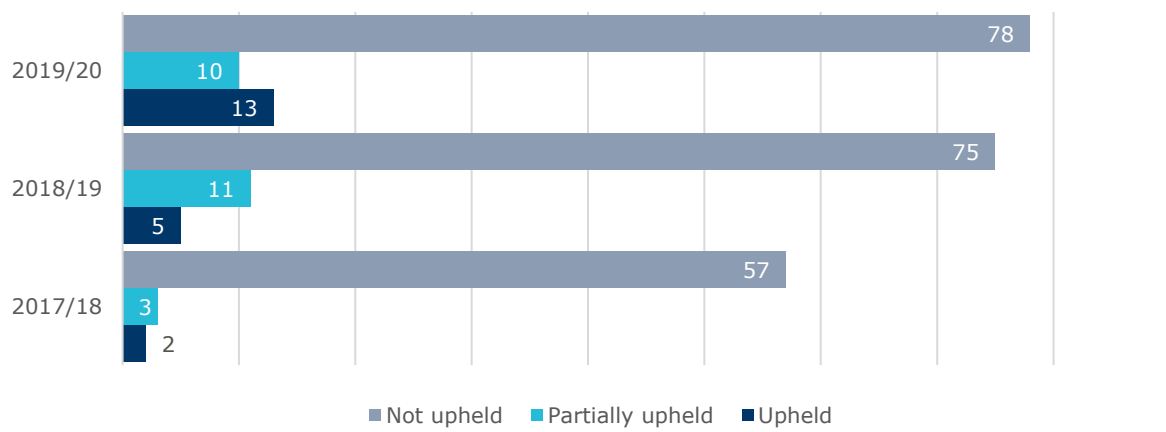


Note: During 2019/20, 4% of the requests we completed led to a request for internal review.

### Internal reviews - Response times



### Internal reviews - Review outcomes



# Financial performance summary

## Grant-in-aid

Freedom of information expenditure continued to be funded by grant-in-aid. In addition, our work on Network and Information Systems (NIS) was funded by grant-in-aid. The total grant-in-aid available for 2019/20 was £6.3m (2018/19: £4.3m).

No grant-in-aid was carried forward in 2019/20 (2018/19: nil).

## Fees

Under the DPA 2018, data protection related work continues to be financed by fees collected from data controllers. The annual fee structure is:

- £40 for charities or organisations with no more than 10 members of staff or a maximum turnover of £632,000;
- £60 for organisations with no more than 250 members of staff or a maximum turnover of £36m; and
- £2,900 for all other organisations.

A £5 discount was given to all fees which were paid by direct debit.

Fees collected in the year totalled £48.712m (2018/19: £39.256m), a 24% increase on the previous year. We achieved this by writing to companies registered with Companies House who had not registered with the ICO. This campaign took place during the latter half of 2019/20, during which time we wrote to around 1m companies. We paused this work following the outbreak of COVID-19 in the UK, given the economic impact and level of uncertainty this caused. We expect to resume this work during 2020/21.

It is important to stress that an increase in the number of organisations paying the fee is not so that we have unlimited funding. We will continue to resource ourselves according to our goals. If the income from fees consistently outstrips our needs, it will bring the potential to reduce the fee for all organisations, reducing the burden for every organisation, but ensuring that burden is shared equally.

As at 31 March 2020, 738,769 data controllers were registered to pay the data protection fee, an increase of 139,202 from 31 March 2019 (599,567).

## Annual expenditure

The total comprehensive expenditure for the year was £5.046m (2018/19: £3.336m).



## Financial instruments

Details of our approach and exposure to financial risk are set out in note 9 to the financial statements.

# Sustainability

## Overall strategy

Our carbon footprint is generated primarily from heating and lighting ICO accommodation, powering our IT infrastructure and from business travel. We make as full a use of technology as possible to reduce electricity and gas consumption; for example by purchasing low energy use IT, fitting new more efficient boilers and installing motion detecting lights.

We also aim to ensure appropriate and proportionate communications tools are in place so that we can engage with stakeholders through relevant channels. As a growing organisation there are increasing business travel demands, but, where appropriate, we seek to communicate electronically rather than travel for face-to-face meetings. As an organisation the ICO reviews the need for all international travel and whether there are suitable alternative ways to fulfil these commitments using technology.

## Performance

Throughout 2019/20, preparations for the UK's exit from the European Union ramped up. This has required our staff to travel with increased frequency to Brussels for EU meetings. We have also increased our travel beyond the EU, to develop strong bilateral relationships throughout the world. In addition to promoting excellent personal data practices, these relationships will be of vital assistance to the UK in creating new trade deals in the post-EU exit period, as data has no borders. Data protection will be a key consideration to those trade deals.

In 2018/19 we had the implementation of the GDPR in May 2018 so there was considerable stakeholder engagement at the start of 2018/19. This led to high levels of business travel. This slightly reduced in 2019/20 leading to a reduction in emissions due to travel.

Our use of gas decreased significantly during 2019/20. This was due to efficiencies and a mild winter. During the year we reduced the amount of water in flushing toilets and the timings of auto flushing in urinals. We also witnessed more staff working from home due to the increased flexibility of having laptops.

2019/20 saw continued expansion for the ICO and we expanded the footprint of our main Wilmslow accommodation to keep pace with the increasing size of our workforce. This has led to an increase use of electricity and subsequent increase in emissions.

## Biodiversity action planning

The ICO is not responsible for any outside space and therefore does not have a biodiversity plan.

## Sustainable procurement

We ask those tendering for contracts to provide their sustainability statements and policies as standard in most procurement exercises.

## Greenhouse gas emissions

### Total tonnes CO<sub>2</sub>

	2016/17	2017/18	2018/19	2019/20
Scope 1 (gas)	7	6	36	17
Scope 2 (electricity)	123	172	160	275
Scope 3 (travel)	86	127	202	182
Total emissions	217*	306*	398	474

### Tonnes CO<sub>2</sub> per full time equivalent staffing

	2016/17	2017/18	2018/19	2019/20
Scope 1 (gas)	0.02	0.01	0.06	0.02
Scope 2 (electricity)	0.30	0.33	0.26	0.37
Scope 3 (travel)	0.21	0.25	0.33	0.24
Total	0.53	0.59	0.66*	0.63

\*Not a direct sum due to rounding.

## Waste minimisation and management and finite resource consumption

### Total waste, water and paper consumption

	2016/17	2017/18	2018/19	2019/20
Waste / tonnes	16	37	35	36
Water consumption / m <sup>3</sup>	2,382	5,963	3,983	3,182
A4 paper / reams	4,000	4,300	4,280	4,544

## Waste, water and paper consumption per full time equivalent staffing

	2016/17	2017/18	2018/19	2019/20
Waste / tonnes	0.04	0.07	0.06	0.05
Water consumption / m <sup>3</sup>	5.82	11.61	6.57	4.23
A4 paper / reams	9.78	8.37	7.06	6.03

## Details of ICO performance

### Total travel

	2016/17	2017/18	2018/19	2019/20
<b>Cars</b>				
Kms	37,264	40,216	57,336	43,656
Cost £	8,195	11,023	14,699	11,506
Tonnes CO <sub>2</sub>	7	8	11	8

<b>Rail</b>				
Kms	615,052	820,202	1,120,361	1,133,971
Cost £	184,443	259,483	404,552	341,668
Tonnes CO <sub>2</sub>	28	37	51	51

<b>Flights</b>				
Number	254	515	1,060	734
Kms	327,356	523,413	889,325	781,541
Cost £	56,614	103,127	202,847	151,422
Tonnes CO <sub>2</sub>	52	82	140	123

<b>Travel summary</b>				
Cost £	249,252	373,633	622,098	504,596
Tonnes CO <sub>2</sub>	86	127	202	182

## Travel per full time equivalent staffing

	2016/17	2017/18	2018/19	2019/20
<b>Cars</b>				
Kms	91.11	78.27	94.61	57.98
Cost £	20.04	21.45	24.26	15.28
Tonnes CO <sub>2</sub>	0.02	0.01	0.02	0.01
<b>Rail</b>				
Kms	1,504	1,596	1,848	1,505.94
Cost £	450.96	505.03	667.58	453.74
Tonnes CO <sub>2</sub>	0.07	0.07	0.08	0.07
<b>Flights</b>				
Number	0.62	1.00	1.75	0.97
Kms	800.38	1,018.71	1,467.53	1,037.90
Cost £	138.42	200.71	334.73	201.09
Tonnes CO <sub>2</sub>	0.13	0.16	0.23	0.16
<b>Travel summary</b>				
Cost £	609.42	727.20	1,026.56	670.11
Tonnes CO <sub>2</sub>	0.21	0.25	0.33	0.24

## Total utilities

	2016/17	2017/18	2018/19	2019/20
<b>Gas</b>				
Kwh	37,336	34,514	195,575	94,989
Cost £	1,606	1,549	6,281	4,151
Tonnes CO <sub>2</sub>	7	6	36	17
<b>Electricity</b>				
Kwh	246,219	343,910	319,151	551,804
Cost £	50,238	65,122	51,995	95,410
Tonnes CO <sub>2</sub>	123	172	160	275
<b>Utility summary</b>				
Cost £	51,844	66,671	58,276	99,561
Tonnes CO <sub>2</sub>	130	178	196	292

## Utilities per full time equivalent staffing

	2016/17	2017/18	2018/19	2019/20
<b>Gas</b>				
Kwh	91.29	67.17	322.73	126.15
Cost £	3.93	3.01	10.36	5.51
Tonnes CO <sub>2</sub>	0.02	0.01	0.06	0.02
<b>Electricity</b>				
Kwh	602	669	527	732.81
Cost £	122.83	126.75	85.80	126.71
Tonnes CO <sub>2</sub>	0.30	0.33	0.26	0.37
<b>Utility summary</b>				
Cost £	126.76	129.76	96.17	132.22
Tonnes CO <sub>2</sub>	0.32	0.35	0.32	0.39

## Whistleblowing disclosures

The ICO is a 'prescribed person' under the Public Interest Disclosure Act 1998, meaning that whistleblowers are provided with protection when disclosing certain information to us.

The Prescribed Persons (Reports on Disclosures of Information) Regulations 2017 require prescribed persons to report annually on whistleblowing disclosures made to them.

The number of whistleblowing disclosures made to us during the period 1 April 2019 to 31 March 2020 was 427. All information provided was recorded and used to develop our overall intelligence picture, in line with our Information Rights Strategic Plan 2017-2021.

Further action was taken on 68 of these disclosures. This may result in referral to appropriate departments for further consideration, referral to external organisations (including other regulators and law enforcement) or consideration for use of our enforcement powers. After review and assessment 359 of the 427 disclosures resulted in no further action taken at that time.

During the period 1 April 2019 to 31 March 2020 further action on the 68 disclosures resulted in 73 referrals to various departments (three disclosures resulted in referrals to two departments; one disclosure resulted in referral to three departments).

The outcomes of these referrals:

- 23 disclosures were taken into consideration for the investigations.
- Eight disclosures were referred back to Advice Services and the PDB Team including providing advice to the whistleblower and where it would be more appropriate for the matter to be raised as a complaint.
- 21 disclosures were considered for non-payment of the data protection fee.
- 12 disclosures were referred to other departments for various actions.
- Three disclosures were considered for tactical and strategic assessment.
- Two disclosures being considered for policy advice.
- Four disclosures resulted in no outcome, but were logged for intelligence purposes only.

After receipt of a concern we will decide how to respond in line with our Regulatory Action Policy. In all cases, we will look at the information provided by whistleblowers alongside other relevant information we hold. For example, if an organisation reports a breach to us we may use information provided by a whistleblower to focus our follow-up enquiries. More broadly, we may use information from whistleblowers to focus our liaison and policy development within a sector, using the information to identify a particular risk or concern.



## Going concern

The accounts are prepared on a going concern basis as a non-trading entity continuing to provide statutory public sector services.

Grant in aid has already been included in the DCMS's estimate for 2020/21 and the DPA 2018 allows the ICO to fund data protection related work through fees paid by data controllers. The DPA 2018 is UK law and will continue to be apply after the UK's exit from the EU.

There is no reason to believe that future sponsorship and parliamentary approval will not be forthcoming.

The ICO has budgeted income of £61m for the year 2020/21 which has been restated to account for the potential impact of Covid-19. In light of the impact of Covid-19 on the UK economy, we have reviewed the mechanism by which the ICO is funded and assessed what the impact on our funding might be. The budget set has taken into account the risks over potential fee income and restated accordingly along with a similarly review of costs. The ICO continues to review the budget and risks within it with DCMS. It is therefore appropriate to adopt a going concern basis for the preparation of these financial statements.



**Elizabeth Denham**

7 July 2020



# Accountability report

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## Directors' report

### Directorships and other significant interests held by Board members that may conflict with their management responsibilities

Membership of the ICO's Management Board, along with further information, is detailed in the Governance statement.

A register of interests is maintained for the Information Commissioner and her Management Board. It is published on our website at [ico.org.uk](https://ico.org.uk). Declarations of interest in any of the items considered at a particular meeting are also asked for at Management Board and Audit Committee meetings.

### Employee involvement and wellbeing

The ICO is a growing organisation, committed to being the best employer we can be. As part of our People Strategy, we are aiming to build on our positive culture as a smaller organisation, where caring and supporting others is valued and the ICO is a good corporate citizen.

The ICO has a policy of co-operation and consultation with recognised trade unions over matters affecting staff. Senior managers meet regularly with trade unions to discuss issues of interest, and staff involvement in the work of the office is actively encouraged as part of the day-to-day process of line management. Our people strategy has three values: ambitious; service-focused; and collaborative.

We continue to implement the actions within the People Strategy and continue to further embed the values. We have launched the new Wellbeing policy which is at the centre of staff wellbeing.

With the impact of COVID-19 we have put staff wellbeing at the heart of our business continuity. We are ensuring that all our staff are fully supported during this period and we are providing wellbeing updates on a weekly basis.

### Equal opportunities and diversity

We put equality, diversity and inclusion at the heart of everything we do, and as part of this we have four equality, diversity and inclusion objectives defined as follows:

- **Spreading knowledge and taking action**

We will raise awareness of information rights across the community and take action to ensure that organisations fulfil their obligations. We will particularly focus on groups and sectors where knowledge gaps may cause

information rights inequalities or vulnerabilities. We will ensure that our actions as a regulator do not create inequalities or unlawfully discriminate.

- **Accessible services**

Our services and information will be accessible for users and potential users of our services, and we will provide our staff with the skills and knowledge they need to provide high quality services for all. We will try to anticipate customer needs and we will take action to remove barriers to our services when possible.

- **Encouraging others**

We will use our status as a regulator, advisory body and purchaser of services to influence improvements in equality by other organisations and across society.

- **Employer**

Our workplaces and practices will be accessible, flexible, fair and inclusive. We will value the diversity, skills, backgrounds and experience of our people, enabling them to perform to their best in a welcoming and supportive environment.

These objectives aim to ensure that the ICO is an inclusive, accessible and diverse regulator, service provider and employer. This will help all members of society to have awareness of, and access to, their information rights and receive appropriate protection if their rights are infringed.

Our Equality, Diversity and Inclusion (EDI) Forum oversees our efforts to provide an increasingly accessible service for our customers and workplace for our staff. In 2019 we undertook a review of the role of this Forum, to ensure that, with the increased size of the organisation, we have continued capacity and focus to embed equality, diversity and inclusion into the core of how we operate.

In 2019 we also saw the creation of five new EDI staff networks focusing on various equality, diversity and inclusion areas:

- **Women and Allies** focused on gender equality, this network aims to encourage, empower and support women in their careers at the ICO and beyond.
- **Healthy minds** focused on the importance of good mental health, this network aims to raise awareness and challenge the perceived social stigma linked to mental and emotional health issues, including stress, depression and anxiety.
- **REACH**, this abbreviation stands for Race, Ethnicity, and Cultural Heritage, with this network focused on raising awareness of issues of race, ethnicity and cultural heritage at the ICO and in the wider community and celebrating diversity.

- **Pride** focused on supporting LGBTQ+ colleagues, raising awareness and celebrating diversity, this network aims to promote a safe, inclusive and diverse working environment that encourages respect and equality for all.
- **Network for Access and Inclusion** focused on improving the experience of disabled staff and customers at the ICO, this network promotes positive attitudes towards disabled people and raises awareness of disability equality by identifying and removing barriers to inclusion.

We provide our staff with a work environment and IT systems which help meet a range of needs; including accessible offices and IT systems, flexible and part-time working (to help work-life balance). This has resulted in all ICO staff members being provided with a new device which enables them to work from any location in a secure and agile way. This has allowed staff to work in the way which best suits them, and has been particularly important in our response to the COVID-19 pandemic, as it allowed us to smoothly transition to remote working.

We aim to recruit from a range of backgrounds and take the applicant-anonymous approach when assessing candidates for employment.

## The community

For the last three years, ICO staff have supported Dementia UK as our corporate charity.

## Personal data incidents

There have been no substantive security incidents during 2019/20.

## Public sector information holders

The ICO has complied with the cost allocation and charging requirements set out in HM Treasury guidance.

## Pension liabilities

Details on the treatment of pension liabilities are set out in note 3 to the financial statements.

## Annual accounts and audit

The annual accounts have been prepared in a form directed by the Secretary of State with the consent of the Treasury in accordance with paragraph 11(4) of Schedule 12 to the DPA 2018.

Under paragraph 11(3) of Schedule 12 to the DPA 2018 the Comptroller and Auditor General was appointed auditor to the Information Commissioner. The

cost of audit services for this year was £31.5k (2018/19: £30k). No other assurance or advisory services were provided.

So far as the Accounting Officer is aware, the Comptroller and Auditor General is aware of all relevant audit information, and the Accounting Officer has taken all the steps that she ought to have taken to make herself aware of relevant audit information and to establish that the Comptroller and Auditor General is aware of that information.

## **Directors' statement**

The ICO's leadership team consists of the Commissioner, Executive Directors and Non-Executive Directors. Each of these persons at the time this report is approved:

- a) so far as they are aware there is no relevant audit information of which the auditor is unaware; and
- b) they have taken all the steps they ought to have taken in their role in order to make themselves aware of any relevant audit information and to establish that the auditor is aware of that information.

# Statement of the Information Commissioner's responsibilities

Under paragraph 11(4) of Schedule 12 to the DPA 2018 the Secretary of State directed the Information Commissioner to prepare for each financial year a statement of accounts in the form and on the basis set out in the Accounts Direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the Information Commissioner's Office at the year end and of the income and expenditure, recognised gains and losses and cash flows for the financial year.

In preparing the accounts, the Information Commissioner is required to comply with the requirements of the Government Financial Reporting Manual (FReM) and in particular to:

- observe the Accounts Direction issued by the Secretary of State with the approval of the Treasury, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the FReM have been followed, and disclose and explain any material departures in the financial statements; and
- prepare the financial statements on the going concern basis, unless it is inappropriate to presume that the Information Commissioner's Office will continue in operation.

The Accounting Officer of the Department for Culture, Media and Sport (DCMS) has designated the Information Commissioner as Accounting Officer for her Office. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances and for keeping of proper records and for safeguarding the Information Commissioner's assets, are set out in the Non-Departmental Public Bodies' Accounting Officer Memorandum, issued by the Treasury and published in Managing Public Money.

The Accounting Officer confirms that, as far as she is aware, the entity's auditors are aware of all relevant audit information, and the Accounting Officer has taken all the steps that she ought to have taken to make herself aware of any relevant audit information and to establish that the entity's auditors are aware of that information.

The Accounting Officer confirms that the Annual report and Accounts as a whole is fair, balanced and understandable and that she takes personal responsibility for the Annual report and Accounts and the judgments required for determining that it is fair, balanced and understandable.

# Governance statement

## Introduction

The Information Commissioner is a corporation sole as established under the DPA 1998 and as confirmed under the DPA 2018. Under the terms of the EU Data Protection Directive and the GDPR, the Information Commissioner and her Office must be completely independent of Government. The Information Commissioner is accountable to Parliament for the exercise of statutory functions and the independence of the ICO is enshrined in legislation. Although the GDPR is EU legislation, it continues to have an effect in the UK until the end of the EU Exit Implementation Period.

## Relationship with the DCMS

The DCMS is the sponsoring department for the ICO. The relationship with the department is governed by a Management Agreement. The Management Agreement for 2018-2021 was agreed in July 2018. This agreement sets out our shared responsibilities and the commitment to ensuring the independence of the Information Commissioner and the ICO. The agreement also ensures that appropriate reporting arrangements are in place to enable the DCMS to monitor the expenditure of public money allocated to the ICO.

The agreement also confirms that the ICO has been granted pay flexibility up to 2020-21. This ensures that we have the flexibility to determine the levels of pay necessary for the ICO to maintain the expertise the office needs to fulfil its functions. Following this period, the ICO will revert to being subject to standard public sector pay policy guidelines (unless otherwise negotiated).

## Management Board

The Information Commissioner continues to be a corporation sole, with responsibility to Parliament. However, the Information Commissioner has delegated her powers and the day-to-day running of the organisation to the Management Board, comprising Non-Executive and Executive Directors. The Information Commissioner is the Chair of the Management Board.

In 2019/20 the Board's Terms of Reference were reviewed as part of a joint programme of work with DCMS to ensure the ICO's governance structures reflect the changes in the role and size of the organisation, whilst taking account of the existing statutory requirements. These changes enable robust and agile decision making, clear accountability, value for money, continuity in leadership and strategic capacity as well as delivering performance and ambition.

The revised Terms of Reference identify five main areas of focus for the Board: the position, culture, capability, perception and performance of the organisation. The Board provides strategic direction to ensure the long-term objectives for the



organisation are met successfully and sustainably. It operates collectively, holding the Executive to account for the leadership and regulatory outcomes of the ICO. It is responsible for developing strategy, monitoring progress in implementing strategy, providing corporate governance and assurance and for managing corporate risks.

The Board is based on majority decision-making principles. As the Information Commissioner is a corporation sole, she retains the right to veto a decision of the Management Board and take another course of action, where she deems necessary. There were no such instances during 2019/20.

The Board comprises of Executive and Non-Executive Directors. During 2019/20, there were five Executive Directors and five Non-Executive Directors. However, during 2019/20, the Board agreed to appoint two further Executive Directors and to increase the number of Non-Executive Directors such that Non-Executive Directors outnumber the Executive Directors. These changes will be implemented during 2020/21. Non-Executive Directors will be appointed by a panel chaired by the Information Commissioner and including a representative from the ICO's Government Sponsor Department.

The Board has agreed to appoint a Senior Independent Director, designated by the Commissioner from amongst the Non-Executive Directors. This Director will be responsible for chairing Board meetings in the absence of the Information Commissioner and for representing the views of the Non-Executive Directors. One of the existing Non-Executive Directors will be appointed to this role during 2020/21.

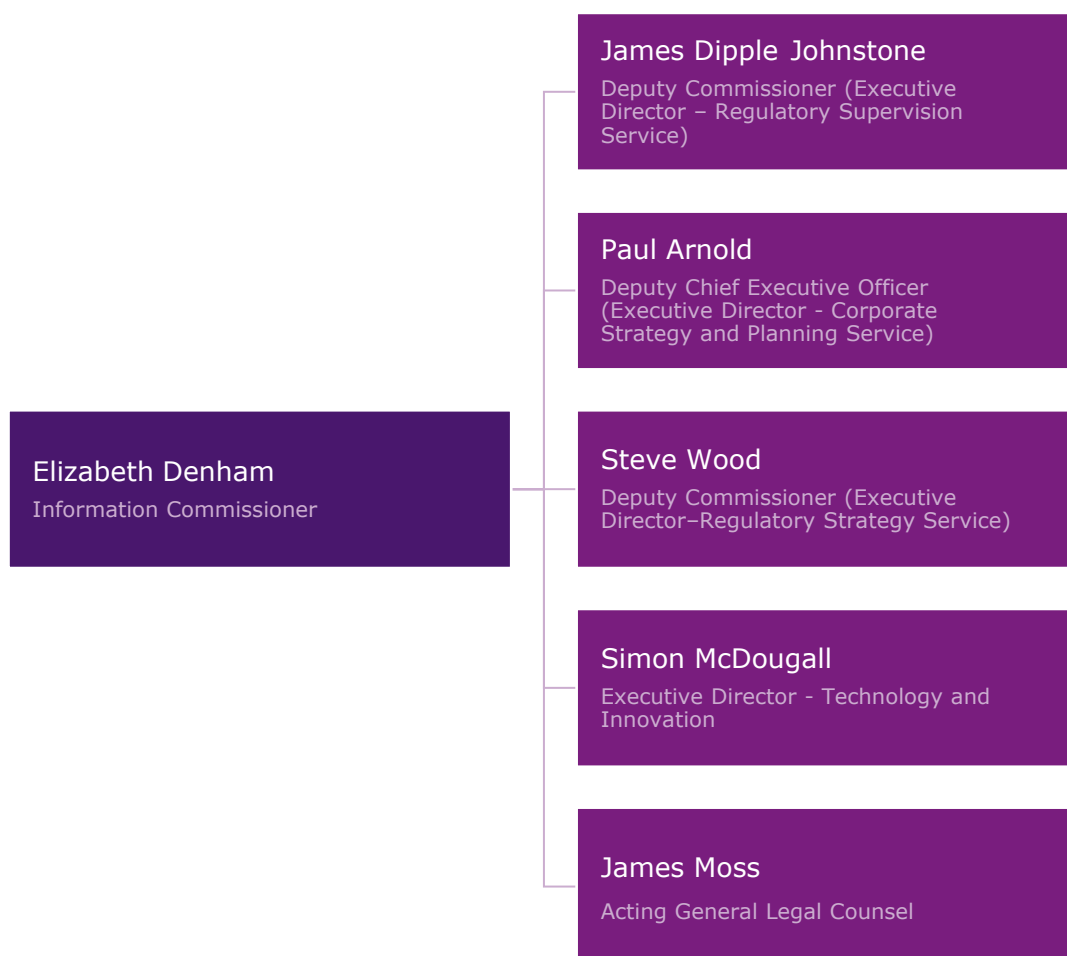
There are two senior Executive Directors who will be designated by the Commissioner from amongst the Executive Directors. One, designated as Chief Operating Officer, will be responsible for the ICO's day-to-day leadership, performance and administration, including being delegated Accounting Officer responsibilities as far as possible. The other, designated as the Chief Regulatory Officer, will be responsible for the ICO's regulatory decisions and outcomes. These executive members will be designated during 2020/21. These changes allow the Information Commissioner to focus on the key strategic relationships with senior politicians, officials and regulators affecting the landscape in which the ICO operates at national and international level, as well as setting the strategy and vision for the office.

The Board meets a minimum of four times annually (six meetings a year are scheduled and took place during 2019/20) and considers risk management and operational, financial, organisational and corporate issues. It also receives reports from the Audit Committee and Executive Team as appropriate.

In the course of 2019/20 the following changes were made to Board membership:

- Peter Hustinx joined the Board on 1 April 2019 as a Non-Executive Director.
- Simon McDougall, Executive Director (Technology and Innovation), had his contract extended. Simon was originally appointed on 1 October 2018 on a two-year contract. This has been extended to July 2021.

In addition to the changes set out above, one further change took place to the Board during early 2020/21. On 14 April 2020, James Moss joined Executive Team as acting General Legal Counsel. He joins Board meetings as an attendee, rather than as a full member. A structure chart is provided below to illustrate the current senior management structure.



The table below details attendance at the Management Board meetings during the year.

Dates	7 May 2019	5 August 2019	8 November 2019	24 January 2020	16 March 2020
Elizabeth Denham	Yes	Yes	Yes	Yes	Yes
Paul Arnold	Yes	Yes	Yes	Yes	Yes

Ailsa Beaton	Yes	Yes	Yes	Yes	Yes
David Cooke	Yes	Yes	Yes	Yes	Yes
James Dipple-Johnstone	Yes	Yes	Yes	Yes	Yes
Peter Hustinx	Yes	Yes	Yes		Yes
Jane McCall	Yes		Yes	Yes	Yes
Simon McDougall	Yes	Yes	Yes	Yes	Yes
Nicola Wood	Yes	Yes	Yes	Yes	Yes
Steve Wood		Yes	Yes	Yes	Yes

## Audit Committee

The Audit Committee meets quarterly and provides a structured, systematic oversight of the ICO's governance, risk management, and internal control practices. The Committee assists the Board and management team by providing independent advice and guidance on the adequacy and effectiveness of the organisation's management practices detailed below, including any potential improvements to these practices:

- governance structure;
- risk management;
- internal control framework;
- oversight of the internal audit activity, external auditors, and other providers of assurance; and
- finance statements and public accountability reporting.

The Committee is chaired by Ailsa Beaton as a Non-Executive Director. Jane McCall is the other Non-Executive Director and Roger Barlow is the independent member.

The table below shows attendance of Audit Committee members at the meetings during the year.

Dates	29 April 2019	20 June 2019	28 October 2019	20 January 2020
Ailsa Beaton	Yes	Yes	Yes	Yes
Roger Barlow	Yes	Yes	Yes	
Jane McCall	Yes	Yes	Yes	Yes

The Information Commissioner has attended all meetings of the Audit Committee during this period. Both external and internal auditors attend the Audit Committee and have pre-meetings with Committee members before each meeting.

The Audit Committee publishes its own Annual report. Each annual report, including the 2019/20 report, is available on the ICO website ([ico.org.uk](http://ico.org.uk)). The

report states that the Committee is satisfied with the quality of internal and external audit and believes that it is able to take a measured and diligent view of the quality of the systems of reporting and control within the ICO.

The Chair of the Audit Committee attends regular meetings of the Chairs of the Audit and Risk Committees of DCMS arms-length bodies. These meetings include discussions with senior DCMS staff and the Comptroller and Auditor General, and provide opportunities to share issues of interest.

The Audit Committee receives a quarterly report on incidents of fraud, security breaches and whistleblowing incidents as assurance that the reporting mechanisms are in place and are effective.

## Executive Team

The Executive Team provides day-to-day leadership for the ICO and as such is responsible for developing and delivering against the Information Rights Strategic Plan. During 2019/20, the team consisted of the Information Commissioner, two Deputy Commissioners, Deputy Chief Executive Officer and Executive Director (Technology and Innovation). As set out above, in early 2020/21, the Executive Team was supplemented by an acting General Legal Counsel.

The Executive Team is supported in its role by the Senior Leadership Team. This team consists of 14 directors across the organisation.

## Board effectiveness

The Management Board has considered its compliance with the Corporate governance in central government departments: Code of good practice 2017. The ICO does not adopt all aspects of the Code, but the Board considers that there are good reasons for this given the nature of the organisation as a corporation sole. In particular:

- the Board does not have the powers and duties of a Board in which is vested the ultimate authority of the organisation. This is because the Information Commissioner is a corporation sole. However, in line with the scale and complexity of the ICO's role and remit, in August 2019 the Commissioner formally delegated responsibility through the ICO's Management Agreement with its Government sponsor department (and the Management Board Terms of Reference) for the strategic leadership of the ICO to the Management Board, of which the Information Commissioner is the Chair. The Board operates based on collective decision-making principles and a 'majority vote' in circumstances where a consensus view cannot be reached. The Commissioner, as a Corporation Sole, will always have the right to set a course of action that is contrary to the majority view of the Board. There have been no such instances in 2019/20;

- the Board did not have a senior independent director for part of the year, but in August 2019 agreed that one should be appointed by the Commissioner. This appointment will take place during 2020/21;
- Non-Executive Directors do not have a specific section in the ICO's Annual Report, but this is not currently considered necessary;
- although the ICO has a Remuneration Advisory Panel to advise the Information Commissioner on remuneration policies related to Executive Team pay, as a corporation sole, the Information Commissioner retains ultimate authority in this area; and
- in respect of an operating framework, the Board operates within the overall system of corporate governance at the ICO.

The Board has reviewed the information it receives and is satisfied with its quality. The Board is also satisfied that it is, itself, operating effectively.

## Issues and highlights

The ICO's corporate governance structure has considered various issues of substance during the course of the year. These include:

- progress towards achieving the ICO's Information Rights Strategic Plan 2017-2021 and the strategies which directly support this, including the Resource and Infrastructure Strategic Plan;
- development of key performance measures;
- reviewing the governance structure;
- risk management policy and risk appetite;
- preparation for the UK's exit from the EU and the period after the UK's exit from the EU;
- development of the Age Appropriate Design Code;
- updates on the ICO's priority investigations;
- organisational planning matters, including accommodation, recruitment, retention and staff pay, during a period of expansion; and
- the ICO's response to the COVID-19 pandemic.

## Risk assessment

Risks and opportunities are regularly reviewed by senior managers. All risks and opportunities are reviewed at least quarterly by Service Delivery Groups; more strategic risks and opportunities are discussed on a monthly basis by Senior Leadership Team; and all of the highest scoring risk risks are subject to bi-monthly review by Executive Team. The Management Board and Audit Committee also consider these highest scoring risks and opportunities at each meeting.

In October 2019 the Audit Committee conducted a full review of all of the ICO's risks and opportunities. In January 2020, the Audit Committee and Management Board approved a new risk management policy and risk appetite statement. The Committee does this on an annual basis. All activities within Directorate business plans are directly linked to risks or opportunities, which has ensured that they are considered even more regularly, along with clearly identifying actions to mitigate risks or exploit opportunities.

The main new risks and opportunities identified during 2019/20 were:

- increasing demand;
- influencing the future regulation of online harms;
- providing appropriate products and services to SMOs;
- Management Board and Executive Team capacity and resilience;
- the COVID-19 pandemic;
- managing the ICO's reputation;
- the political and economic environment; and
- staff wellbeing.

In addition, throughout 2019/20, we continued to work to mitigate the key corporate risks to achieving our six strategic goals.

<b>Key risk area</b>	<b>Mitigation approach</b>
The impact of exiting the EU and the resulting uncertainty.	Coordinated planning and response through the ICO's EU Withdrawal Planning Group. Guidance for a range of exit scenarios developed and published, with accompanying communications for small and medium sized organisations. Ongoing liaison with UK government, EU counterparts and other data protection authorities. Development of operational demand plans to deal with increased volumes of enquiries.
Development of a service culture to deliver responsive and reliable services for our stakeholders.	Implementation of a service excellence programme including research and training. Launch of ICO corporate values.
Development of infrastructure and culture to ensure we are compliant	Internal and external audit. Suite of internal policies covering financial, procurement, HR, corporate,

with all relevant legal and other obligations.	information governance and security obligations. Audit Committee oversight of the ICO's internal controls framework.
Delivery of the ICO's statutory Codes of Practice.	Dedicated resources in place. Detailed project plans including utilising external research and consultation.

The ICO also received an internal audit (via Mazars, our internal auditor) of our risk management policies, procedures and practices. This audit gave a finding of "adequate assurance" (this is defined as "There is generally a sound control framework in place, but there are significant issues of compliance or efficiency or some specific gaps in the control framework which need to be addressed. Adequate assurance indicates that despite this, there is no indication that risks are crystallising at present.")

The main area of uncertainty for the future, at the time of writing this report, is the COVID-19 pandemic. This pandemic has a direct impact on the ICO's operations and priorities, and may well have a long-term impact on the ICO's future operations and priorities, even after the UK and world returns to normal as the pandemic eases.

In addition, there is still uncertainty about the UK's exit from the European Union and establishing its new international position. This is vital for the ICO, as international trade relies heavily on the ease with which data can travel across borders and the trust and confidence consumers have when it does. In the run-up to the EU exit, the ICO has devoted significant resources to developing our bilateral relationships with other data protection authorities, both in the EU and beyond.

## Sources of assurance

As Accounting Officer the Information Commissioner has responsibility for reviewing the effectiveness of the system of internal control, including the risk management framework. This review is informed by the work of the internal auditors and senior managers who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports.

2019/20 was the second year of our contract for internal audit with Mazars, who will provide our internal audit services until June 2021. In their annual report, they gave an opinion that the framework of governance, risk management, and control is moderate in its overall adequacy and effectiveness ("moderate" is defined by Mazars as "some improvements are required to enhance the

adequacy and effectiveness of the framework of governance, risk management and control.”). Mazars stated that “on the basis of our audit work, our opinion on the framework of governance, risk management, and control is Moderate in its overall adequacy and effectiveness. Certain weaknesses and exceptions were highlighted by our audit work, however none were considered fundamental. These matters have been discussed with management, to whom we have made a number of recommendations. All of these have been, or are in the process of being addressed, as detailed in our individual reports.” (“Moderate” is defined by Mazars as “Some improvements are required to enhance the adequacy and effectiveness of the framework of governance, risk management and control.”). Mazars made 39 recommendations in their audits during 2019/20, of which 28 have been implemented during the year.

The Information Commissioner is satisfied that a plan to address weaknesses in the system of internal control and to ensure continuous improvement of the system is in place. The Information Commissioner is also satisfied that all material risks have been identified and that those risks are being properly managed.



## Remuneration policy

Schedule 4 to the DPA 2018 states that the salary of the Information Commissioner be specified by a Resolution of the House of Commons. In March 2018 the House resolved that the salary would be £160k per annum from 1 April 2018. The salary is paid directly from the Consolidated Fund. In addition to this salary, the Information Commissioner also receives a non-consolidated, non-pensionable annual allowance of £20,000.

In January 2018 the ICO was granted pay flexibility from 1 April 2018 to 31 March 2021 to enable it to review its pay and grading structure. During this period the ICO has the flexibility to determine the levels of pay necessary for it to maintain the expertise it needs to fulfil its functions as a supervisory authority. In exercising this flexibility, the assumption is that matching market averages will be the upper limit of the ICO's pay levels, since a public sector organisation's pay should be slightly below averages in the wider market. This flexibility is also subject to standard public spending principles and the Information Commissioner will keep HM Treasury and DCMS updated with how this flexibility is being exercised.

In making decisions on remuneration the Information Commissioner has regard to the following considerations:

- the need to recruit, retain and motivate suitably able and qualified people;
- government policies for improving the public services;
- the funds available to the Information Commissioner; and
- Treasury pay guidance.

In matters relating to Executive Team pay, the Information Commissioner also has regard to the recommendations of the Remuneration Advisory Panel (established from February 2019).

During 2019/20, as part of delivering pay flexibility, a career progression framework was implemented. This framework creates a means by which the ICO can recognise and reward staff, based on increased personal competence, contribution and impact within the role, aligned to the organisation's vision and values. The framework has allowed us to attract and retain higher quality staff.

Once this period of pay flexibility finishes after 2020/21, the ICO will revert to being subject to standard public sector pay policy guidelines issued by HMT, unless otherwise negotiated. As such, the remuneration of staff and other officers will be determined by the Information Commissioner in consultation with the Secretary of State and Treasury

Staff appointments are made on merit on the basis of fair and open competition and, unless otherwise stated, are open-ended until normal retiring age.

Individuals who are made redundant are entitled to receive compensation as set out in the Civil Service Compensation Scheme.

During 2019/20, Non-Executive Directors were paid an annual salary of £13,824 and are appointed for an initial term of three years, renewable by the Information Commissioner by mutual agreement. Additional payment was made for additional days worked.

The salary for the Non-Executive Directors is based on 16 days at a rate of £864 per day. In light of the increased demands place on the Non-Executive Directors, for 2020/21 onwards, the number of days contribution required from the Non-Executive Directors will increase to 26. Therefore, the annual salary of Non-Executive Directors will increase to £22,464.

# Remuneration and staff report

## Salary and pension entitlements (audited)

Details of the remuneration and pension interests of the Information Commissioner and her most senior officials are provided below.

## Remuneration (salary, bonuses, benefits in kind and pensions)

Officials	Salary (£'000)		Benefits in kind (-nearest £100)		Compensation schemes (£'000)		Pension benefits (£'000) (-nearest £1,000)		Total (£'000)	
	2019/ 20	2018/ 19	2019/ 20	2018/ 19	2019/ 20	2018/ 19	2019/ 20	2018/ 19	2019/ 20	2018/ 19
Elizabeth Denham Information Commissioner	180-185 <sup>1</sup>	180-185 <sup>1</sup>	-	-	-	-	61	61	240-245	240-245 <sup>1</sup>
Paul Arnold Deputy CEO	115-120	95-100	-	100	-	-	74	144	190-195	235-240
Steve Wood Deputy Commissioner (Regulatory Strategy)	105-110	95-100	-	100	-	-	48	97	150-155	190-195
James Dipple- Johnstone Deputy Commissioner (Regulatory Supervision)	115-120	100-105	-	100	-	-	23 <sup>2</sup>	17.5 <sup>2</sup>	135-140	115-120
Simon McDougall Executive Director (Technology and Innovation) <sup>3</sup>	115-120	50-55 (full year 105-110)	100	-	-	-	303 <sup>4</sup>	21	415-420	75-80
Ailsa Beaton Non-Executive Board Member	20-25	15-20	-	-	-	-	-	-	20-25	15-20
David Cooke Non-Executive Board Member	10-15	25-30	-	-	-	-	-	-	10-15	25-30
Peter Hustinx <sup>6</sup> Non-Executive Board Member	10-15	-	-	-	-	-	-	-	10-15	-

Officials	Salary		Benefits in kind (-nearest £100)		Compensation schemes (£'000)		Pension benefits (£'000) (-nearest £1,000)		Total (£'000)	
	(£'000)									
	2019/20	2018/19	2019/20	2018/19	2019/20	2018/19	2019/20	2018/19	2019/20	2018/19
Jane McCall Non-Executive Board Member	15-20	15-20	-	-	-	-	-	-	15-20	15-20
Nicola Wood Non-Executive Board Member	10-15	20-25	-	-	-	-	-	-	10-15	20-25

## Notes:

1. This includes a non-consolidated, non-pensionable annual allowance of £20,000.
2. James Dipple-Johnstone is a member of a Partnership pension scheme. We are required to disclose Employer contributions to pensions to the nearest £100.
3. Appointed October 2018.
4. This figure includes the transfer in of another pension.
5. Appointed April 2019.

The value of pension benefits accrued during the year is calculated as the real increase in pension multiplied by 20 plus the real increase in any lump sum, less the contributions made by the individual. The real increases exclude increases due to inflation or any increase or decrease due to a transfer of pension rights.

Salary comprises gross salary and any other allowance to the extent that it is subject to UK taxation. There were no bonus payments to Board Members in 2019/20.

All benefits in kind relate to the ICO's contribution to the ICO's health care plan provided by BHSF.

## Pension Benefits (audited)

	Accrued pension at pension age as at 31 March 2020 and related lump sum	Real increase in pension and related lump sum at pension age	CETV at 31 March 2020	CETV at 31 March 2019	Real increase in CETV
	£'000	£'000	£'000	£'000	£'000
Elizabeth Denham Information Commissioner	10-15	2.5-5	215	149	47
Paul Arnold Deputy CEO	30-35 plus a lump sum of 70-75	2.5-5 plus a lump sum of 2.5-5	533	410	41
Steve Wood Deputy Commissioner (Regulatory Strategy)	20-25	2.5-5	341	295	25
James Dipple-Johnstone Deputy Commissioner (Regulatory Supervision) <sup>1</sup>	-	-	-	-	-
Simon McDougall Executive Director (Technology and Innovation)	15-20	15-17.5	183	14	20

### Notes:

1. Member of partnership pension scheme.  
The Cash Equivalent Transfer Value (CETV) figures are provided by MyCSP, the ICO's Approved Pensions Administration Centre, who have assured the ICO that they have been correctly calculated following guidance provided by the Government Actuary's Department.

## Partnership pensions

There is one member of staff included in the list of the Commissioner's most senior staff who has a partnership pension. Please see note 2 to the table on pages 99 to 100.

## Civil Service pensions

Further details about the Civil Service pension arrangements are available at [civilservicepensionscheme.org.uk](http://civilservicepensionscheme.org.uk).

## Cash Equivalent Transfer Values (CETV)

A CETV is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. It represents the amount paid made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme.

The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a capacity to which disclosure applies.

The figures include the value of any pension benefit in another scheme or arrangement that the individual has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their purchasing additional pension benefits at their own cost. CETV's are worked out in accordance with The Occupational Pensions Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

## Real increase in CETV

This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

## Pay multiples (audited)

Reporting bodies are required to disclose the relationship between the remuneration of the highest paid director in their organisation and the median remuneration of the organisation's workforce. The Information Commissioner is deemed to be the highest paid director and no member of staff receives remuneration higher than the highest paid director.

The banded remuneration of the highest paid director of the ICO in the financial year 2019/20 was £180k to £185k (2018/19: £180k to £185k). This was 5.9 times (2018/19: 6.6 times) the median remuneration of the workforce, which was £30,626 (2018/19: £27,096). The median total remuneration is calculated by ranking the annual full-time equivalent salary as at 31 March 2020 for each member of staff.

Staff remuneration ranged from £19,299 to £180,000 (2018/19: £19,299 to £180,000).

Total remuneration includes salary, non-consolidated performance-related pay and benefits-in-kind. It does not include severance payments, employer pension contributions or the CETV of pensions.

During 2019/20, as stated above, the ICO had permission to exercise pay flexibility, although it still adheres to the principle of government pay restraint policies.

## Number of senior civil service staff (or equivalent) by band

The Information Commissioner, the two Deputy Commissioners, the Deputy Chief Executive Officer, the Executive Director – Technology and Innovation and the five Non-Executive Directors are the only staff categorised as being at a grade equivalent to the senior civil service.

## Staff composition

As of the end of 2019/20 there were 10 members of the Management Board, of whom six were male and four were female. In total in the ICO, 37.3% of staff were male and 62.7% female.

## Sickness absence

The average number of sick days taken per person during the year was 7.2 days (2018/19: 5.5 days).

## Staff policies relating to the employment of disabled persons

The ICO's recruitment processes ensure that shortlisting managers only assess the applicant's skills, knowledge and experience for the job. All personal information is removed from applications before shortlisting.

The ICO applies the Disability Confident standard for job applicants who are disabled. It has also assisted in the continued employment of disabled people by providing a work environment that is accessible and equipment that allows people to perform effectively. Our disabled staff are given equal access to training and promotion opportunities and adjustments are made to work arrangements, work patterns and procedures to ensure that people who are, or become, disabled, are treated fairly and can continue to contribute to the ICO's aims.

## Staff numbers and costs (audited)

As at 31 March 2020 the ICO had 768 permanent staff (720.3 full time equivalents).

## Average number of full time equivalents during 2019/20

	Permanently employed staff	Temporarily employed staff	2019/20 Total	2018/19 Total
Directly employed	700.2	6	706.2	606
Agency staff	0	20.7	20.7	32
<b>Total employed</b>	<b>700.2</b>	<b>26.7</b>	<b>726.9</b>	<b>638</b>

## Staff costs

	Permanently employed staff £000	Others £000	2019/20 Total £000	2018/19 Total £000
Wages and salaries	27,369	1,639	29,008	22,840
Social security costs	2,942	-	2,942	2,154
Other pension costs	7,126	-	7,126	4,050
<b>Sub-total</b>	<b>37,437</b>	<b>1,639</b>	<b>39,076</b>	<b>29,044</b>
Less recoveries in respect of outward secondments	0	-	0	(1)
<b>Total net costs</b>	<b>37,437</b>	<b>1,639</b>	<b>39,076</b>	<b>29,043</b>

Included in staff costs above are notional costs of £256k (2018/19: £220k) in respect of salary and pension entitlements of the Information Commissioner and the associated employers national insurance contributions (which are credited directly to the General Reserve), temporary agency staff costs of £0.746m (2018/19: £1.415m) and inward staff secondments of £894k (2018/19: £453k), as well as the amounts disclosed in the Remuneration section above.



## Expenditure on consultancy

During 2019/20 there was expenditure totalling £665k on consultancy as defined in Cabinet Office spending controls guidance (2018/19: £329k).

This expenditure mainly relates to external support in establishing the ICO's pay flexibility policies. It also includes support which has been necessary in other areas during our growth in the last year, such as forensic work, preparation for the UK's EU exit, strategic communications, and research.

## Off-payroll engagements

There were no off-payroll engagements during 2019/20.

## Exit packages (audited)

Redundancy and other departure costs are paid in accordance with the provisions of the Civil Service Compensation Scheme, a statutory scheme made under the Superannuation Act 1972. Exit costs are accounted for in full in the year of departure. Where the Information Commissioner has agreed early retirements, the additional costs are met by the Information Commissioner and not by the Principle Civil Service Pension Scheme (PCSPS). Ill health retirement costs are met by the pension scheme and are not included in the table above.

There were no compulsory redundancies in 2019/20 (2018/19: none) and no other exit packages.

Ex-gratia payments made outside of the provisions of the Civil Service Compensation Scheme are agreed directly with the Treasury.

## Trade union facility time

### Relevant union officials

Number of employees who were relevant union officials during the relevant period	14
Full time equivalent employee number	0.49

### Percentage of time spent on facility time

0%	0
1-50%	14
51%-99%	0
100%	0

### **Percentage of pay bill spent on facility time**

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Total cost of facility time	£15,679.68
Total pay bill	£29,006,000
Percentage	0.05%

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### **Paid trade union activities**

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Time spent on trade union activities as a percentage of total paid facility time hours	20%
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## Regularity of expenditure (audited)

There are no regularity of expenditure issues.

## Fees and charges (audited)

Information on fees collected from data controllers who notify their processing of personal data under the DPA is provided in the Financial Performance Summary, as part of the performance report earlier in this document. Further information on data protection fees is also set out in notes 1.5 and 2 to the financial statements.

## Remote contingent liabilities (audited)

Please see note 18 to the accounts.

## Long-term expenditure trends

The ICO is collecting fees under the GDPR and Data Protection (Charges and Information) Regulations 2018 - this fee structure allows the ICO to better match fee income to the cost of regulation. Fee income was initially budgeted to increase to over £57m this financial year, and to approximately £60m by 2021-22. There is now however a material risk that this will not happen in 2020/21 due to the impact of COVID-19 on our ability to generate data protection fee income. We have currently revised down the projections for fee income to 2020/21 to £54m. We are ensuring we maintain dialogue with DCMS about the impact of COVID-19.

Grant-in-aid for our freedom of information work has slightly increased to £4m per annum.



**Elizabeth Denham**

7 July 2020

# The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

## Opinion on financial statements

I certify that I have audited the financial statements of Information Commissioner's Office for the year ended 31 March 2020 under the Data Protection Act 2018. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity; and the related notes, including the significant accounting policies. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Accountability Report that is described in that report as having been audited.

In my opinion:

- the financial statements give a true and fair view of the state of Information Commissioner's Office affairs as at 31 March 2020 and of net expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the Data Protection Act 2018 and Secretary of State directions issued thereunder.

## Opinion on regularity

In my opinion, in all material respects the income and expenditure recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

## Basis of opinions

I conducted my audit in accordance with International Standards on Auditing (ISAs) (UK) and Practice Note 10 'Audit of Financial Statements of Public Sector Entities in the United Kingdom'. My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of my certificate. Those standards require me and my staff to comply with the Financial Reporting Council's Revised Ethical Standard 2016.

I am independent of the Information Commissioner's Office in accordance with the ethical requirements that are relevant to my audit and the financial statements in the UK. My staff and I have fulfilled our other ethical responsibilities in accordance with these requirements. I believe that the audit

evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

## Conclusions relating to going concern

I have nothing to report in respect of the following matters in relation to which the ISAs (UK) require me to report to you where:

- the Information Commissioner's Office's use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the Information Commissioner's Office have not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the Information Commissioner's Office's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

## Responsibilities of the Board and Accounting Officer for the financial statements

As explained more fully in the Statement of Information Commissioner's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view.

## Auditor's responsibilities for the audit of the financial statements

My responsibility is to audit, certify and report on the financial statements in accordance with the Data Protection Act 2018.

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs (UK), I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not

detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;

- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Information Commissioner's Office's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management;
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the consolidated financial statements represent the underlying transactions and events in a manner that achieves fair presentation; and
- conclude on the appropriateness of the Information Commissioner's Office's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Information Commissioner's Office's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my report. However, future events or conditions may cause the Information Commissioner's Office to cease to continue as a going concern.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the income and expenditure reported in the financial statements have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

## Other Information

The Accounting Officer is responsible for the other information. The other information comprises information included in the annual report, other than the parts of the Accountability Report described in that report as having been audited, the financial statements and my auditor's report thereon. My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon. In connection with my audit of the financial statements, my responsibility is to read the other information

and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

## Opinion on other matters

In my opinion:

- the parts of the Accountability Report to be audited have been properly prepared in accordance with Secretary of State directions made under the Data Protection Act 2018;
- in the light of the knowledge and understanding of the Information Commissioner's Office and its environment obtained in the course of the audit, I have not identified any material misstatements in the Performance Report or the Accountability Report; and
- the information given in the Performance Report and Accountability Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

## Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the parts of the Accountability Report to be audited are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

## Report

I have no observations to make on these financial statements.

**Gareth Davies**

**Comptroller and Auditor General**

10 July 2020

National Audit Office,

157-197 Buckingham Palace Road

Victoria

London SW1W 9SP



# Financial statements

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# Statement of comprehensive net expenditure

## for the year ended 31 March 2020

		2019/20		2018/19	
	Note	£'000	£'000	£'000	£'000
<b>Expenditure</b>					
Staff costs	3		39,076		29,043
Other expenditure	4	13,436		13,689	
Depreciation and other non-cash costs	4	2,241	15,677	584	14,273
<b>Total expenditure</b>			<b>54,753</b>		<b>43,316</b>
<b>Income</b>					
Income from activities	5a		(49,707)		(39,980)
<b>Net Expenditure</b>			<b>5,046</b>		<b>3,336</b>
<b>Total comprehensive expenditure for the year ended 31 March</b>			<b>5,046</b>		<b>3,336</b>

Note: All income and expenditure relates to continuing operations. There was no other comprehensive expenditure for the year ended 31 March 2020 (31 March 2019)

The notes on pages 118 to 139 form part of these financial statements.

# Statement of financial position

## as at 31 March 2020

		31 March 2020		31 March 2019	
	Note	£'000	£'000	£'000	£'000
<b>Non-current assets</b>					
Property, plant and equipment	6	1,073		1,839	
Right of use assets	7	3,968		-	
Intangible assets	8	688		36	
<b>Total non-current assets</b>			5,729		1,875
<b>Current assets</b>					
Trade and other receivables	10	5,390		6,420	
Cash and cash equivalents	11	6,154		3,101	
<b>Total current assets</b>			11,544		9,521
<b>Total assets</b>			17,273		11,396
<b>Current liabilities</b>					
Trade and other payables	12		(7,506)		(8,647)
Provisions	13		(911)		(35)
Lease liability	14		(1,487)		-
<b>Non-current assets plus net current assets</b>			7,369		2,714
<b>Non-current liabilities</b>					
Provisions	13		(859)		(510)
Lease liability	14		(2,759)		-
<b>Assets less liabilities</b>			3,751		2,204
<b>Taxpayers' equity</b>					
Revaluation reserve			-		-
General reserve		3,751		2,204	
			3,751		2,204

Note: The notes on pages 118 to 139 form part of these financial statements.



**Elizabeth Denham**  
7 July 2020

# Statement of cash flows

## for the year ended 31 March 2020

	Note	2019/20 £'000	2018/19 £'000
<b>Cash flows from operating activities</b>			
Net expenditure		(5,046)	(3,336)
Adjustment for non-cash items	3,4, 13	3,887	708
Decrease/(increase) in trade and other receivables	10	(564)	(1,000)
Increase/(decrease) in trade payables	12	178	1,923
Use of provisions	13	(30)	(10)
<b>Net cash outflow from operating activities</b>		<b>(1,575)</b>	<b>(1,715)</b>
<b>Cash flows from investing activities</b>			
Purchase of property, plant and equipment	6	(543)	(623)
Proceeds on sale of property, plant & equipment		1	-
Purchase of intangible assets	8	(119)	(30)
<b>Net cash outflow from investing activities</b>		<b>661</b>	<b>(653)</b>
<b>Cash flows from financing activities</b>			
Right of use assets - Lease		(1,291)	-
Grant-in-aid received from the DCMS	17	6,338	2,896
<b>Net cash inflow from financing activities</b>		<b>5,047</b>	<b>2,896</b>
Net increase/(decrease) in cash and cash equivalents during the year before adjustment for receipts and payments to the Consolidated Fund		2,811	528
Receipts due to the Consolidated Fund which are outside the scope of the Information Commissioner's activities		1,899	2,990
Payments of amounts due to the Consolidated Fund		(1,658)	(3,340)
Net increase/(decrease) in cash and cash equivalents in the year after adjustment for receipts and payments to the Consolidated Fund		3,053	178
<b>Cash and cash equivalents at the start of the year</b>		<b>3,101</b>	<b>2,923</b>

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<b>Cash and cash equivalents at the end of the year</b>	11	6,154	3,101
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Note: The notes on pages 118 to 139 form part of these financial statements.

## Statement of changes in taxpayers' equity for the year ended 31 March 2020

	Note	Revaluatio n reserve £'000	General reserve £'000	Total reserves £'000
<b>Balance at 31 March 2018</b>		-	2,426	2,426
<b>Changes in tax payers' equity 2018/19</b>				
Grant-in-aid from the DCMS	1.3	-	2,896	2,896
Comprehensive expenditure for the year		-	(3,338)	(3,338)
Non-cash charges – Information Commissioner's salary costs	3	-	220	220
<b>Balance at 31 March 2019</b>		-	2,204	2,204
<b>Changes in tax payers' equity 2019/20</b>				
Grant-in-aid from the DCMS		-	6,338	6,338
Comprehensive expenditure for the year		-	(5,046)	(5,046)
Non-cash charges – Information Commissioner's salary costs		-	256	256
<b>Balance at 31 March 2020</b>		-	3,752	3,752

Note: The notes on pages 118 to 139 form part of these financial statements.

# Notes to the accounts

## 1. Statement of accounting policies

These financial statements have been prepared on a going concern basis in accordance with the 2019/20 Government Financial Reporting Manual (FReM) issued by HM Treasury. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the accounting policy which is judged most appropriate to the particular circumstances of the Information Commissioner for the purpose of giving a true and fair view has been selected. The particular policies adopted by the Information Commissioner are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

### 1.1. Accounting convention

These accounts have been prepared under the historical cost convention modified to account for the revaluation of property, plant and equipment and intangible assets at their value to the business by reference to current costs.

### 1.2. Disclosure of IFRS in issue but not yet effective

The Information Commissioner has reviewed and concluded that there are no IFRSs in issue and effective yet that are applicable to the ICO.

### 1.3. Grant-in-aid

Grant-in-aid is received from the DCMS to fund expenditure on freedom of information work, and is credited to the General Reserve on receipt.

### 1.4. Cash and cash equivalents

Cash and cash equivalents recorded in the Statement of Financial Position and Statement of Cash Flows include cash-in-hand, deposits held at call with banks, other short-term highly liquid investments and bank overdrafts.

### 1.5. Income from activities and Consolidated Fund income

Income collected under the Data Protection Act 2018 is surrendered to the DCMS as Consolidated Fund income, unless the DCMS (with the consent of the Treasury) has directed otherwise, in which case it is treated as Income from activities. There are three main types of income collected:

#### **Data protection notification fees**

Fees are collected from annual notification fees paid by data controllers required to notify their processing of personal data under the DPA 2018. The Information Commissioner has been directed to retain the fee income collected to fund data protection work and this is recognised in the Statement of Comprehensive Net Expenditure as income. At the end of each year, the Information Commissioner may carry forward to the

following year sufficient fee income to pay year-end creditors. Any fees in excess of the limits prescribed within the Management Agreement with DCMS are paid over to the Consolidated Fund. Under IFRS 15, if an entity does not satisfy a performance obligation over time, the performance obligation is satisfied at a point in time. As fees are recognised and used in the year in which they are received, then under IFRS 15 the performance obligations are considered to have been satisfied at a point in time.

The ICO follows a five-step approach to recognising the fee income under IFRS15 this is as follows

**Step 1 Identify Contract:** In line with guidance from HMT, DP Fee income will be treated as a contract with customers.

**Step 2 Identify performance obligations –** Based on the services that the ICO provide to both organisations (who are liable for the DP fee) and the general public, there are no specific performance obligations identifiable but rather an ongoing performance with no specific service available for one organisation over another. Services are based on (subject and caseload) priority and public risk, cases that come on line through investigation channels and assurance, annual cycle of advice and guidance publication, technical advice and leadership

**Step 3 Determine transaction price –** The cost of the DP fee is based on size, complexity of organisation and set by the Secretary of State based on consultation with the ICO on the forecasted costs of delivering all regulatory services to both organisations and the general public.

**Step 4 Allocate price to performance obligations –** No specific performance obligations specific to one organisation further than overall public body regulatory obligations therefore there is no viable method of allocating a price to obligations (other than the fee cost in its entirety).

**Step 5 Recognise revenue when performance obligations are met –** This is deemed to be at the point of registration.

### **Civil monetary penalties**

The Information Commissioner can impose civil monetary penalties for serious breaches of the DPA or PECR of up to £500k up to 25 May 2018 and up to 4% of global turnover thereafter. A penalty can be reduced by 20% if paid within 30 days of being issued.

The Information Commissioner can impose fines for not paying the data protection fee up to a maximum of £4,350 under the DPA 2018.

The Information Commissioner does not take action to enforce a civil monetary penalty unless and until the period specified in the notice as to when the penalty must be paid has expired and the penalty has not been paid, all relevant appeals against the monetary penalty notice and any

variation of it have either been decided or withdrawn, and the period for the data controller to appeal against the monetary penalty and any variation of it has expired.

Civil monetary penalties collected by the Information Commissioner are recognised on an accruals basis when issued. They are paid over to the Consolidated Fund, net of any early payment reduction when received. Civil monetary penalties are not recognised in the Statement of Comprehensive Net Expenditure, but are treated as a receivable and payable in the Statement of Financial Position. Under IFRS 15 the revenue through fines and penalties is recognised as the fine is the equivalent of a taxable event, the revenue can be measured reliably, and it is probable that the fine will be paid. If the fines are subject to appeal they are not recognised until the appeal process is finalised and the fine is confirmed as valid..

The amounts recognised are regularly reviewed and subsequently adjusted in the event that a civil monetary penalty is varied, cancelled, impaired or written off as irrecoverable. Amounts are written off as irrecoverable on the receipt of legal advice. Legal fees incurred in recovering debts are borne by the ICO.

IFRS9 requires determination of an amount in respect of expected credit losses, reflecting Management's forward-looking assessment of the recoverability of debts. Such an impairment value has been incorporated into the financial statements this year. The impairment value is based on those CMP cases still being investigated by the Enforcement department at year-end and where the expectation of receiving any income from these CMPs has diminished over time, but where enforcement investigations are still ongoing.

### **Sundry receipts**

The Information Commissioner has been directed to retain certain sundry receipts such as other legislative funding, grants, management charges, reimbursed travel expenses and recovered legal costs. This is recognised in the Statement of Comprehensive Net Expenditure as income.

The Information Commissioner has interpreted the Financial Reporting Manual (FReM) to mean that she is acting as a joint agent with the DCMS, and that income not directed to be retained as Income from Activities falls outside of normal operating activities and are not reported through the Statement of Comprehensive Net Expenditure, but disclosed separately within the notes to the accounts. This included receipts such as bank interest, which is paid to the Consolidated Fund.

## **1.6. Notional costs**

The salary and pension entitlement of the Information Commissioner are



paid directly from the Consolidated Fund and are included within staff costs and reversed with a corresponding credit to the General Reserve.

### 1.7. Pensions

Past and present employees are covered by the provisions of the Principal Civil Service Pensions Scheme.

### 1.8. Property, plant and equipment

Assets are classified as property, plant and equipment if they are intended for use on a continuing basis, and their original purchase cost, on an individual basis, is £2,000 or more, except for laptop and desktop computers, which are capitalised even when their individual cost is below £2,000.

Property, plant and equipment (excluding assets under construction) is valued under a depreciated historical cost basis as a proxy for current value in existing use or fair value for assets that have short useful lives or low values.

At each balance sheet date the carrying amounts of property, plant and equipment and intangible assets are reviewed to determine whether there is any indication that those assets have suffered an impairment loss. If any such indication exists the fair value of the asset is estimated in order to determine the impairment loss. Any impairment charge is recognised in the Statement of Comprehensive Net Expenditure account in the year in which it occurs.

### 1.9. Depreciation

Depreciation is provided on property, plant and equipment on a straight-line basis to write off the cost or valuation evenly over the asset's anticipated life. A full year's depreciation is charged in the year in which an asset is brought into service. No depreciation is charged in the year of disposal. The principal lives adopted are:

<b>Information Technology</b>	Between 5 and 10 years
<b>Plant and Machinery</b>	Between 5 and 10 years
<b>Leasehold improvements</b>	Over remainder of the property lease
<b>Right of use assets</b>	Over the remainder of the lease period

### 1.10. Intangible assets and amortisation

Intangible assets are stated at the lower of replacement cost and recoverable amount. Computer software licences and their associated costs are capitalised as intangible assets where expenditure of £2,000 or more is incurred. Software licences are amortised over their useful economic life which is estimated as four years or the length of the contract, whichever is the shorter term.

### 1.11. Leases

IFRS 16 "Leases" has been implemented from 1 April 2019; this introduces a single lessee accounting model that requires a lessee to recognise assets and liabilities for all leases (apart from the exemptions included below).

For government bodies reporting under the FReM, IFRS 16 is due to be brought into effect on 1 April 2020 and replaces IAS 17 (Leases). DCMS has elected, with HMT authority, to early adopt IFRS 16 (as adapted by the HMT's IFRS 16 leases application guidance). As part of the DCMS group, ICO is therefore implementing from 1 April 2019.

In respect of lessees, IFRS 16 removes the distinction between operating and finance leases and introduces a single accounting model that requires a lessee to recognise ('right-of-use') assets and lease liabilities.

The definition of a lease has been updated under IFRS 16, there is more emphasis on being able to control of the use of asset identified in a contract. There are new requirements for variable lease payments such as RPI/CPI uplifts; and there is an accounting policy choice allowable to separate non-lease components.

#### *Implementation and Assumptions*

The DCMS group, and so ICO, has applied IFRS 16 using the modified retrospective approach and therefore the comparative information has not been restated and continues to be reported under IAS 17 and IFRIC 4. The cumulative effect of adopting IFRS 16 is included as an adjustment to equity at the beginning of the current period (£nil for ICO). IAS 17 operating leases are included within our statement of financial position as a lease liability and right of use asset for the first time with changes made through the general fund as a cumulative catch up adjustment. The calculation of the lease liability and right of use assets are included below.

The option to reassess whether a contract is, or contains, a lease at the date of initial application has not been used, the group, and so ICO, has used the practical expedient detailed in IFRS 16(C3).1.

The group has expanded the definition of a lease to include arrangements with nil consideration. Peppercorn leases are examples of these, these are defined by HMT as lease payments significantly below market value. These assets are fair valued on initial recognition. On transition any differences between the discounted lease liability and the right of use asset are included through cumulative catch up. Any differences between the lease liability and right of use asset for new leases after implementation of IFRS 16 are recorded in income on the SoCNE.

The group, and so ICO, has elected not to recognise right of use assets and lease liabilities for the following leases:

- intangible assets;
- non-lease components of contracts where applicable;
- low value assets (these are determined to be in line with capitalisation thresholds on Property, Plant and Equipment except vehicles which have been deemed to be not of low value) ; and
- leases with a lease term of 12 months or less.

#### *Previous treatment*

In the comparative period, as a lessee the ICO would have classified leases that transferred substantially all the risks and rewards of ownership as finance leases. The ICO did not hold leases considered to be finance leases in 2018/19.

Assets previously held as operating leases were not recognised in the groups statement of financial position. Payments were recognised in SoCNE on a straight line basis over the term of the lease. Lease incentives were recognised as an integral part of the total lease expense, over the term of the lease.

#### *Policy applicable from 1 April 2019*

At inception of a contract, the ICO assesses whether a contract is, or contains, a lease. A contract is, or contains a lease if the contract conveys the right to control the use of an identified asset for a period of time. This includes assets for which there is no consideration. To assess whether a contract conveys the right to control the use of an identified asset, the group assesses whether:

- The contract involves the use of an identified asset;
- The group has the right to obtain substantially all of the economic benefit from the use of the asset throughout the period of use; and
- The group has the right to direct the use of the asset.

The policy is applied to contracts entered into, or changed, on or after 1 April 2019.

At inception or on reassessment of a contract that contains a lease component, the group allocates the consideration in the contract to each lease component on the basis of the relative standalone prices.

The group assesses whether it is reasonably certain to exercise break options or extension options at the lease commencement date. The group reassesses this if there are significant events or changes in circumstances that were anticipated.

### *Right of use assets*

On transition to IFRS16 the ICO recognises a right of use asset and a lease liability at the lease commencement date. The right-of-use asset is initially measured at the amount equal to the lease liability, adjusted by the amount of any prepaid or accrued lease liability (present value of minimum lease payments), and subsequently at the amount less accumulated depreciation and impairment losses, and adjusted for certain re-measurements of the lease liability. Right-of-use assets are held at current cost in accordance with HMT IFRS 16 guidance. Depreciated historic cost is used as a proxy for current value as directed by HMT guidance on IFRS 16, including for property leases, because property leases are sufficient short in term and are not expected to fluctuate significantly due to changes in market prices. Lease payments only include the direct cost of the leases and do not include other variables. Lease terms are determined based on advice from the Government Property Unit and in accordance with the business needs of the ICO.

The right-of-use asset is depreciated using the straight line method from the commencement date to the earlier of the end of the useful life of the right-of-use asset or the end of the lease term. The estimated useful lives of the right-of-use assets are determined on the same basis of those of property plant and equipment assets.

The group applies IAS 36 Impairment of Assets to determine whether the right-of-use asset is impaired and to account for any impairment loss identified.

### *Lease liabilities*

The lease liability is initially measured at the present value of the lease payments that are not paid at the commencement date, discounted using the interest rate implicit in the lease or where that is not readily determinable, the discount rate as provided by HM Treasury of 1.99% for leases entered into prior to 31 Dec 2019 or 1.27% after 1 Jan 2020. The lease liability only includes the direct lease cost and excludes any service charges. The length of each lease is determined on signing the contractual terms following agreement with the landlord and after gaining permission from the Government Property Unit

The lease payment is measured at amortised cost using the effective interest method. It is re-measured when there is a change in future lease payments arising from a change in the index or rate, if there is a change in the group's estimates of the amount expected to be payable under a residual value guarantee, or if the group changes its assessment of whether it will exercise a purchase, extension or termination option.

Lease payments included in the measurement of the lease liability comprise the following:

- Fixed payments, including in-substance fixed payments;
- Variable lease payments that depend on an index or a rate, initially measured using the index rate as at the commencement date;
- Amounts expected to be payable under a residual value guarantee;
- The exercise price under a purchase option that the group is reasonably certain to exercise, lease payments in an optional renewal period if the ICO is reasonably certain to exercise an extension option, and penalties for early termination of a lease unless the ICO is reasonably certain not to terminate early.

The lease liability is subsequently increased by the interest cost on the lease liability and decreased by lease payments made. It is re-measured when there is a change in the future lease payments arising from a change in an index or rate, a change in the estimate of the amount expected to be payable under a residual value guarantee, or as appropriate, changes in the assessment of whether a purchase or extension option is reasonably certain to be exercised or a termination option is reasonably certain not to be exercised.

When the lease liability is re-measured a corresponding adjustment is made to the right of use asset or recorded in the SoCNE if the carrying amount of the right of use asset is zero.

ICO presents right of use assets that don't meet the definition of investment properties per IAS40 as right of use assets on the Statement of Financial Position. The lease liabilities are included within Lease liabilities within current and non-current liabilities on the Statement of Financial Position.

#### *Impact on financial statements*

On transition to IFRS 16, ICO recognised an additional £4,279k of right of use assets and £4,279k of lease liabilities, therefore recognising £nil difference in the General Reserve account.

When measuring lease liabilities, the group discounted lease payments using rates set out above.

	£000's
Operating lease commitment at 31 March 2019	4,616

Discounted using discount rates	(210)
Finance Lease liabilities at 31 March 2019	
- Exemptions for	
o Short terms leases	(127)
o Leases of low value assets	-
- Extension and termination options reasonably certain to be exercised	-
- Variable lease payments based on an index or a rate	-
- Residual value guarantees	-
<b>Lease liabilities recognised at 1 April 2019</b>	<b>4,279</b>

### 1.12. Provisions

Provisions are recognised when there is a present obligation as a result of a past event where it is probable that an outflow of resources will be required to settle the obligation and a reliable estimate of the amount of the obligation can be made.

### 1.13. Value added tax

The Information Commissioner is not registered for VAT as most activities of the Information Commissioner's Office are outside of the scope of VAT. VAT is charged to the relevant expenditure category, or included in the capitalised purchase cost of non-current assets.

### 1.14. Segmental reporting

The policy for segmental reporting is set out in note 2 to the Financial statements.

### 1.15. Impact of COVID 19

The Data Protection Act 2018 makes provision for the ICO to retain certain income collected under that Act. DCMS, with the consent of the Treasury, has determined which income ICO can retain, and this is described in Note 1.5 above. The ICO has budgeted income of £61m for the year 2020/21 which has been restated to account for the potential impact of Covid-19. In light of the impact of Covid-19 on the UK economy, the mechanism by which the ICO is funded has been reviewed whilst also assessing what the impact of Covid-19 on the funding might be. The budget set has taken into account the risks over potential fee income and restated accordingly along with a similarly review of costs. The ICO continues to review the budget and risks within it with DCMS. It is therefore appropriate to adopt a going concern basis for the preparation of these financial statements.

## 2. Analysis of net expenditure by segment

	Data protection £'000	Freedom of information £'000	Other grant-in-aid £'000	2019/20 Total £'000
Gross expenditure	48,415	3,750	2,588	54,753
Income	(49,707)	-	-	(49,707)
Net expenditure	(1,292)	3,750	2,588	5,046

	Data protection £'000	Freedom of information £'000	Other grant-in-aid £'000	2018/19 Total £'000
Gross expenditure	40,920	3,750	(1,354)	43,316
Income	(39,980)	-	-	(39,980)
Net expenditure	940	3,750	(1,354)	3,336

Expenditure is classed as administrative expenditure except those costs associated with readiness for legislative changes which have been classified as programme.

The analysis above is provided for fees and charges purposes and for the purpose of IFRS 8: Operating Segments.

The factors used to identify the reportable segments of data protection and freedom of information are that the Commissioner's main responsibilities were contained within the DPA 2018 and FOIA, and funding during 2019/20 and in prior years was provided for data protection work by collecting an annual registration fee from data controllers under the DPA, whilst funding for freedom of information is provided by a grant-in-aid from the DCMS. Other grant-in-Aid related to £500k for network infrastructure and systems regulation, £46k for electronic identification and trust services regulation, funding to support pension costs £1.4m and funding to support litigation costs £600k.

The data protection notification fee was set by the Secretary of State, and in making any fee regulations under section 134 of the DPA 2018, as amended by paragraph 17 of Schedule 2 to FOIA, the Secretary of State had to have regard to the desirability of securing that the fees payable to the Commissioner were sufficient to offset the expenses incurred by the Commissioner, the Information Tribunal and any expenses of the Secretary of State in respect of the Commissioner of the Tribunal, and any prior deficits incurred, so far as attributable to the functions under the DPA 2018.

These accounts do not include the expenses incurred by the Information Tribunal or the Secretary of State in respect of the Commissioner, and therefore cannot

be used to demonstrate that the data protection fees offset expenditure on data protection functions, as set out in the DPA 2018.

Expenditure is apportioned between the data protection and freedom of information work on the basis of costs recorded in the ICO's accounting system. This allocates expenditure to various cost centres across the organisation. A financial model is then applied to apportion expenditure between data protection and freedom of information on an actual basis, where possible, or by way of reasoned estimates where expenditure is shared.

### 3. Staff numbers and related costs

<b>Staff costs comprise:</b>	Permanently employed staff £'000	Others £'000	2019/20 Total £'000	2018/19 Total £'000
Wages and salaries	27,369	1,639	29,008	22,840
Social security costs	2,942	-	2,942	2,154
Other pension costs	7,126	-	7,126	4,050
<b>Sub-total</b>	37,437	1,639	39,076	29,044
Less recoveries in respect of outward secondments	-	-	-	(1)
<b>Total net costs</b>	37,437	1,639	39,076	29,043

Included in staff costs above are notional costs of £256k (2018/19: £220k) in respect of salary and pension entitlements of the Information Commissioner and the associated employers national insurance contributions which are credited directly to the General Reserve, temporary agency staff costs of £746k (2018/19: £1.415m) and inward staff secondments of £894k (2018/19: £453k) as well as the amounts disclosed in the Remuneration Report.

#### Average number of persons employed

The average number of whole time equivalent persons employed during the year was:

	Permanently employed staff	Temporarily employed staff	2019/20 Total	2018/19 Total
Directly employed	706	-	706	606
Agency staff	-	21	21	32
<b>Total employed</b>	706	21	727	638



## Pension arrangements

The Principal Civil Service Pension Scheme (PCSPS) and the Civil Servant and Other Pension Scheme (CSOPS) – known as “alpha” – are unfunded multi-employer defined benefit schemes but the Information Commissioner’s Office is unable to identify its share of the underlying assets and liabilities.

The scheme actuary valued the PCSPS as at 31 March 2012. Details can be found in the resource accounts of the Cabinet Office Civil Superannuation ([civilservice.gov.uk/pensions](http://civilservice.gov.uk/pensions)).

For 2019/20 employers contributions of £6.878m (2018/19: £3.866m) were payable to the PCSPS at one of four rates in the range 20% to 24.5% of pensionable pay, based on salary bands. The Scheme's Actuary reviews employer contributions usually every four years following a full scheme valuation. The contribution rates are set to meet the cost of benefits accruing during 2019/20 to be paid when the member retires and not the benefits paid during the period to existing pensioners.

Employees can opt to open a ‘Partnership’ account, a stakeholder pension with an employer contribution. Employers' contributions of £196k (2018/19: £142k), were paid to one or more of a panel of three appointed stakeholder pension providers. Employers’ contributions are age-related and range from 8% to 14.75% of pensionable pay. In addition, employer contributions of £6k (2018/19: £4.9k), 0.8% of pensionable pay, were payable to the Principal Civil Service Pension Scheme to cover the cost of future provision of lump sum benefits on death in service and ill health retirement of these employees.

Contributions due to partnership pension providers at the Statement of Financial Position date were £6k (2018/19: £6.6k). Contributions prepaid at this date were £nil (2018/19: £nil).

Other pension costs include notional employers' contributions of £53k (2018/19: £39k) in respect of notional costs in respect of the Information Commissioner.

No individuals retired early on health grounds during the year.

## 4. Other expenditure

	2019/20		2018/19	
	£'000	£'000	£'000	£'000
Accommodation (Business rates and services)	879		698	
Rentals under operating leases	661		1,060	
Office supplies and stationery	508		168	
Carriage and telecommunications	60		58	

Travel and subsistence	983	1,022
Staff recruitment	283	579
Specialist assistance and policy research	1,359	2,880
Communications and external relations	539	834
Legal costs	1,181	974
Learning and development, health and safety	500	520
IT Service delivery costs	3,248	3,302
Business development costs	2,962	1,291
Audit fees	30	30
Grants Fund	243	273
	13,436	13,689
<b>Non-cash items</b>		
Depreciation	1,974	439
Amortisation	236	141
Loss on disposal of assets	31	4
	2,241	584
<b>Total expenditure</b>	<b>15,677</b>	<b>14,273</b>

## 5. Income

### 5a. Income from activities

	2019/20		2018/19	
	£'000	£'000	£'000	£'000
Fees	48,712		39,256	
Sundry receipts	995		724	
		49,707		39,980

### 5b. Consolidated Fund income

	2019/20		2018/19	
	£'000	£'000	£'000	£'000
<b>Fees</b>				
Collected under the DPA	48,712		39,256	
Retained under direction as Income from activities	(48,712)		(39,256)	
		-		-
<b>Civil monetary penalties - Investigations</b>				
Penalties issued	2,409		5,436	

Early payment reductions	(281)	(663)
Repaid following a successful appeal	-	-
Uncollectable, cancelled after successful appeals	(110)	-
Re-issued after appeal	-	-
Impairments	(2,000)	-
	18	4,773
<b>Civil monetary penalties – Non-payment of fees</b>		
Penalties Issued	287	171
Impairments	-	-
	287	171
<b>Sundry receipts</b>		
Receipts under the Proceeds of Crime Act	1	-
Grant income (repaid)	-	-
Bank interest received	-	-
Brexit Funding	190	-
Recovered legal fees	20	11
Reimbursed travel expenses	48	36
Conference fees	81	52
Management Fee from Telephone Preference Service	79	12
Income received from The Regulatory Pioneers Fund	229	279
Income receipts under the Investigatory Powers Act	330	330
Marketing income	17	4
	995	724
Sundry receipts retained under direction as Income from Activities	(995)	(724)
	-	-
<b>Income payable to Consolidated Fund</b>	305	4,944
<b>Balances held at the start of the year</b>	4,543	2,939
Income payable to the Consolidated Fund	305	4,944
Payments to the Consolidated Fund	(1,657)	(3,340)
Balances held at the end of the year (note 12)	3,191	4,543

As set out in note 1.5 income payable to the Consolidated Fund does not form part of the Statement of Comprehensive Net Expenditure. Amounts retained

under direction from the DCMS with the consent of the Treasury are treated as income from activities within the Statement of Comprehensive Net Expenditure.

The amounts receivable at 31 March 2020 were £2.456m (2018/19: £4.149m) and the amounts payable were £2.882m (2018/19: £4.389m).

The Civil Monetary Payment figure at the year-end date includes all Civil Monetary Payments unpaid at that date.

## 6. Property, plant and equipment

	Informa- tion technol- ogy	Plant and machin- ery	Leasehold improve- ments	Assets under construc- tion	2020 Total	2019 Total
	£'000	£'000	£'000	£'000	£'000	£'000
<b>Cost or valuation</b>						
At 1 April 2019	7,776	288	2,382	770	11,216	10,741
Additions	151	15	378	(1)	543	623
Transfers	-	-	-	(769)	(769)	-
Disposals	(395)	(62)	-	-	(457)	(148)
<b>At 31 March 2020</b>	<b>7,532</b>	<b>241</b>	<b>2,760</b>	<b>-</b>	<b>10,533</b>	<b>11,216</b>
<b>Depreciation</b>						
At 1 April 2019	6,886	148	2,343	-	9,377	9,083
Charged in year	379	41	88	-	508	439
Disposals	(390)	(36)	1	-	(425)	(145)
<b>At 31 March 2020</b>	<b>6,875</b>	<b>153</b>	<b>2,432</b>	<b>-</b>	<b>9,460</b>	<b>9,377</b>
<b>Net book value at 31 March 2020</b>						
Owned	657	88	328	-	1,073	1,839
<b>Net book value at 31 March 2020</b>	<b>657</b>	<b>88</b>	<b>328</b>	<b>-</b>	<b>1,073</b>	<b>1,839</b>

Property, plant and equipment (excluding assets under construction) is valued under a depreciated historical cost basis as a proxy for current value in existing use or fair value for assets that have short useful lives or low values. This is considered an appropriate model for all classes of assets as the majority have useful lives of five years or are considered an immaterial value.

Included above are fully depreciated assets, in use with an original cost of £5.686m (2018/19: £6.117m).

The amount of £769k has been transferred from Asset under construction to Software licences in 2019/20. In 2018/19 £770k was shown under tangible assets whereas it is intangible in nature.

## 7. Right of use assets

	Long leasehold land and buildings £'000	2020 Total £'000	2019 Total £'000
<b>Cost or valuation</b>			
At 1 April 2019	-	-	-
Right of use assets brought in under transition	4,279	4,279	-
Additions	1,155	1,155	-
<b>At 31 March 2020</b>	<b>5,434</b>	<b>5,434</b>	<b>-</b>
<b>Depreciation</b>			
At 1 April 2019	-	-	-
Charged in year	1,466	1,466	-
<b>At 31 March 2020</b>	<b>1,466</b>	<b>1,466</b>	<b>-</b>
<b>Net book value at 31 March 2020</b>	<b>3,968</b>	<b>3,968</b>	<b>-</b>
<b>Asset financing</b>			
Owned	3,968	3,968	-
<b>Net book value at 31 March 2020</b>	<b>3,968</b>	<b>3,968</b>	<b>-</b>

The lease on the ICO main premises at Wycliffe House, Wilmslow expired on 1 January 2017 and a new lease was signed with a break clause in five years. Further leases were entered into during the period (see note 15) with no dilapidations deemed applicable as at 31 March 2019. A provision has been made based upon the assessment by Avison Young (the trading name of GVA), commercial property advisers, dated January 2020 and March 2020. A full dilapidation report was completed across the full Wilmslow estate during 2019/20.

The ICO also occupies government properties in Edinburgh and Cardiff under Memorandum of Terms of Occupation agreements ending 2020 and 2024 respectively. Under these agreements, the ICO may have dilapidations liabilities at the end of the term of occupation but these are considered immaterial to recognise further.

## 8. Intangible assets

	Software licences	Assets under construction	2020 Total	2019 Total
	£'000	£'000	£'000	£'000
<b>Cost or valuation</b>				
At 1 April 2019	3,379	-	3,379	3,403
Additions	119	-	119	30
Disposals	(57)	-	(57)	(54)
Transfers	769	-	769	-
Reclassifications	-	-	-	-
<b>At 31 March 2020</b>	<b>4,210</b>	<b>-</b>	<b>4,210</b>	<b>3,379</b>
<b>Amortisation</b>				
At 1 April 2019	3,343	-	3,343	3,255
Charged in year	236	-	236	141
Disposals	(57)	-	(57)	(53)
<b>At 31 March 2020</b>	<b>3,522</b>	<b>-</b>	<b>3,522</b>	<b>3,343</b>
<b>Net book value at 31 March 2020</b>	<b>688</b>	<b>-</b>	<b>688</b>	<b>36</b>
<b>Asset financing</b>				
Owned	688	-	688	36
<b>Net book value at 31 March 2020</b>	<b>688</b>	<b>-</b>	<b>688</b>	<b>36</b>

The amount of £769k has been transferred from Asset under construction to Software licences in 2019/20. In 2018/19 £770k was shown under tangible assets whereas it is intangible in nature.

## 9. Financial instruments

As the cash requirements of the Information Commissioner are met through fees collected under the DPA 2018 and grant-in-aid provided by the DCMS, financial instruments play a more limited role in creating and managing risk than would apply to a non-public sector body. The Information Commissioner does not make use of any financial instruments beyond standard day to day banking. The Information Commissioner has no loans and does not use financial instruments to make investment.

The financial instruments utilised relate to contracts to buy non-financial items in line with the Information Commissioner's expected purchase and usage

requirements and the Information Commissioner is therefore exposed to little credit, liquidity or market risk.

## 10. Trade receivables and other current assets

	31 March 2020 £'000	31 March 2019 £'000
<b>Amounts falling due within one year:</b>		
Trade debtors	760	405
Prepayments and accrued income	1,899	1,734
Sub-total	2,659	2,139
Consolidated Fund receipts due	4,703	4,297
Less: amounts impaired (note 5b)	(2,000)	-
Other	28	(16)
	2,731	4,281
	5,390	6,420

## 11. Cash and cash equivalents

	31 March 2020 £'000	31 March 2019 £'000
Balance at 1 April	3,101	2,923
Net change in cash and cash equivalent balances	3,053	178
<b>Balance at 31 March</b>	<b>6,154</b>	<b>3,101</b>
<b>Split:</b>		
Commercial banks and cash in hand	4,616	2,146
Government Banking Service	1,538	955
	6,154	3,101

## 12. Trade payables and other current liabilities

	31 March 2020 £'000	31 March 2019 £'000
<b>Amounts falling due within one year:</b>		
Taxation and social security	715	621
Trade payables	994	568
Other payables	1,261	1,155

Accruals and deferred income	1,344	1,760
Sub-total	4,314	4,104
Amount payable to government (note 5b)	3,191	4,543
	7,505	8,647

**Split:**

Sponsor department – DCMS	3,191	4,543
Other central government bodies	714	621
Bodies external to government	3,600	3,483
	7,505	8,647

The amount payable to the sponsor department represents the amount which will be due to the Consolidated Fund when all of the income due is collected.

### 13. Provision for liabilities and charges

	Pay Award		Dilapidations		Early departure costs	
	2019/ 20 £'000	2018/ 19 £'000	2019/ 20 £'000	2018/ 19 £'000	2019/ 20 £'000	2018/ 19 £'000
Balance at 1 April	-	-	510	605	35	45
Provided in year	911	-	349	(95)*	(5)	-
Provision utilised in year	-	-	-	-	(30)	(10)
<b>Balance at 31 March</b>	911	-	859	510	-	35

\*This represents a reassessment of the provision

#### Analysis of expected timing of discounted flow:

	Pay award		Dilapidations		Early departure costs	
	2019/ 20 £'000	2018/ 19 £'000	2019/ 20 £'000	2018/ 19 £'000	2019/ 20 £'000	2018/ 19 £'000
Not later than one year	911	-	-	-	-	35
Later than one year and not later than five years	-	-	859	510	-	-
Later than five years	-	-	-	-	-	-
<b>Balance at 31 March</b>	911	-	859	510	-	35



## Pay Award

The pay award for 2019/20 has been proposed as 2% from 1 April 2019 and then 5.25% from 24 February 2020. The amount of the pay award payable has been provided for at the year-end as the final agreement to implement the award is pending the outcome of the Trade Union ballot.

## Dilapidations provision

The lease on the ICO main premises at Wycliffe House, Wilmslow expired on 1 January 2017 and a new lease was signed with a break clause in 5 years. Further leases were entered into during the period (see note 15) with no dilapidations deemed applicable as at 31 March 2019. A provision has been made based upon the assessment by Avison Young (the trading name of GVA), commercial property advisers, dated January 2020 and March 2020. A full dilapidation report was completed across the full Wilmslow estate during 2019/20.

The ICO also occupies government properties in Edinburgh and Cardiff under Memorandum of Terms of Occupation agreements ending 2020 and 2024 respectively. Under these agreements, the ICO may have dilapidations liabilities at the end of the term of occupation but these are considered immaterial to recognise further.

## Early departure costs

The additional cost of benefits, beyond the normal PCSPS benefits in respect of employees who retire early, are provided for in full when the early departure decision is approved by establishing a provision for the estimated payments discounted by the Treasury discount rate. There were no early departure costs in 2019/20 (in 2018/19 the discount rate was: 0.10%). The estimated payments are provided by MyCSP.

## 14. Lease liabilities

<b>Maturity Analysis – contractual undiscounted cashflows</b>	31 March 2020
	£'000
Less than one year	1,562
Between two and five years	2,921
Later than five years	-
	<b>4,483</b>
<b>Lease Liabilities included in the balance sheet</b>	
Current	1,487
Non-current	2,759
	<b>4,246</b>

### Movement in lease during the year

As at 01 April 2019 – on transition to IRFS 16	4,279
Interest charged to the income statement	103
Lease Liability in relation to new leases	1,155
Lease rental payments	(1,291)
	4,246

## 15. Capital commitments

There were no capital commitments in the year ended 31 March 2020 (2018/19: £nil).

## 16. Commitments under operating leases

The 2019 presentation under IFRS16 Leases includes all leases on balance sheet as Right of use assets with a corresponding lease liability, other than leases which are short leases (terms of 12 months or less) or low value leases (asset value of less than £5,000). Leases that qualify for these exemptions are included within the disclosure below for 2019.

The future aggregate minimum lease payments under non-cancellable leases not accounted for elsewhere under IFRS16 are as follows

	31 March 2020	31 March 2019
<b>Total future minimum lease payments under operating leases are:</b>	<b>£'000</b>	<b>£'000</b>
Not later than one year	75	1,320
Later than one year and not later than five years	96	3,296
Later than five years	-	-
	171	4,616

The minimum lease payments are determined from the relevant lease agreements and do not reflect possible increases as a result of market-based reviews. The lease expenditure charged to the Statement of Comprehensive Net Expenditure during the year is disclosed in note 4.

## 17. Related party transactions

The Information Commissioner confirms that she had no personal business interests which conflict with her responsibilities as Information Commissioner.

During the financial year 2019/20 the DCMS was a related party to the Information Commissioner.

During the year no related party transactions were entered into, with the exception of providing the Information Commissioner with grant-in-aid, other

funding and the appropriation-in-aid of Civil Monetary Penalty and sundry receipts to the Ministry of Justice for surrender to the Consolidated Fund.

In addition, the Information Commissioner has had various material transactions with other central government bodies, most of these transactions have been with the Principal Civil Service Pension Scheme (PCSPS).

None of the key managerial staff or other related parties has undertaken any material transaction with the Information Commissioner during the year.

## **18. Contingent liabilities**

There are no contingent liabilities at 31 March 2020 (31 March 2019: none).

## **19. Events after the reporting period**

There were no events between the Statement of Financial Position date and the date the accounts were authorised for issue, which is interpreted as the date of the Certificate and Report of the Comptroller and Auditor General.



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