

1 July 2020

George White
request-668661-c29c75fb@whatdotheyknow.com

Dear G White

Case Reference IC-42189-W9J7

Request for Information

Further to our acknowledgement of 11 June we can now respond to your information request of 4 June.

Request

In your email you asked us:

"What Authorities are currently being monitored and have been monitored in the past 5 years?"

Your request has been handled under the Freedom of Information Act 2000 (the FOIA). As you are probably aware, this legislation provides public access to recorded information held by a public authority unless an appropriate exemption applies.

Our response

You will find copies of our monitoring reports with details of the public authorities we were monitoring for FOI compliance up to September 2017 on our website [here](#). This information is technically exempt from disclosure pursuant to section 21 of the FOIA as it is available to you by other means.

As advised on the above referenced web page, this type of monitoring work is no longer continuing in the same format. However, ongoing work with public authorities continues, using intelligence gathered from individual cases, and the

external environment, to explore with public authorities whether there are systemic problems which may need addressing.

The names of the authorities we have been working with under this new format are exempt from disclosure under section 31(1)(g) of the FOIA.

The exemption at section 31(1)(g) of the FOIA refers to circumstances where the disclosure of information "would, or would be likely to, prejudice – ... the exercise by any public authority of its functions for any of the purposes specified in subsection (2)."

In this case the relevant purposes contained in subsection 31(2) are 31(2)(a) and 31(2)(c) which state –

"(a) the purpose of ascertaining whether any person has failed to comply with the law" and

"(c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise ..."

The exemption at section 31 is not absolute, and we must therefore consider the prejudice or harm which may be caused by disclosure of the information you have sought, as well as applying a public interest test by weighing up the factors in favour of disclosure against those in favour of maintaining the exemption.

We take the view that to release the information you have asked for could prejudice the ICO's ability to constructively engage with external parties during our regulatory process. Disclosing the names of the organisations we have had contact with risks prejudicing our ongoing relationship with those organisations.

Disclosure could jeopardise the ICO's ability to obtain information from organisations, especially in situations where we are proactively working with the organisation to improve their performance and compliance.

With this in mind, we have then considered the public interest test for and against disclosure.

In this case the public interest factors in favour of disclosing the information are as follows:

- Increased transparency in the way in which we carry out our work as a regulator;

- The understandable interest of members of the public regarding organisations' general compliance with the legislation we oversee.

The public interest factors in maintaining the exemption are as follows:

- We consider that disclosing the names of the organisations would likely compromise our ability to conduct future work with them and therefore affect the discharge of our regulatory function in vital areas, including our ability to influence the behaviour of data controllers and to take formal action;
- There is a public interest in us being able to maintain effective and productive relationships with the parties we communicate with. It is essential that organisations continue to engage with us in a constructive and collaborative way without fear that the fact of the communication will be made public if it is inappropriate to do so;
- There is a public interest in the ICO maintaining its ability to conduct its regulatory activities as it sees fit, without disclosing information to the public which might affect those activities; and
- The ICO has a demonstrable history of sharing information when it is appropriate to do so, in line with our communicating regulatory and enforcement activity policy.

Having considered the arguments both for and against disclosure we do not find that there is sufficient weight in the arguments that favour disclosure.

Disclosure of the requested information would be likely to be prejudicial to our regulatory function as it would impact upon our ability to effectively carry out investigations of this nature both now and in the future.

Having considered all of these factors we have taken the decision that the public interest in withholding the information outweighs the public interest in disclosing it.

Next steps

FOI review procedure

If you are dissatisfied and wish to request a review of our decision or make a

complaint about how your request has been handled you should write to the Information Access Team at the address below or e-mail accessicoinformation@ico.org.uk.

Your request for internal review should be submitted to us within 40 working days of receipt by you of this response. Any such request received after this time will only be considered at the discretion of the Commissioner.

If having exhausted the review process you are not content that your request or review has been dealt with correctly, you have a further right of appeal to this office in our capacity as the statutory complaint handler under the legislation.

To make such an application, please write to our Customer Contact Team at the address given or visit our website if you wish to make a complaint under the FOIA.

Your information

Please note that our [Privacy notice](#) explains what we do with the personal data you provide to us and what your rights are.

This includes entries regarding the specific purpose and legal basis for the ICO processing information that people that have provided us with, such as an [information requester](#).

The length of time we keep information is laid out in our retention schedule, which can be found [here](#).

Yours sincerely



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