

## **Note on Arrangements for Handling High Profile DP Cases with Significant Political or Policy Implications**

### Scope

These arrangements apply to the ICO's handling of matters concerning compliance with the DPA that are brought to our attention and that have significant political or policy implications. They will only apply in exceptional circumstances which are not adequately covered by existing procedures. They are most likely to be relevant when a request for an ICO opinion or intervention is received from a civil society organisation or other representative group with information rights interests. They could also be relevant to high profile requests of a similar nature from other sources such as MPs or single issue campaign groups. These requests may be presented to us as "complaints" but will have much wider implications than a typical request for assessment under s 42 of the DPA.

To qualify for handling under these arrangements the cases must:

- raise significant compliance concerns with potentially wide ranging or far reaching impact.
- not be conclusively addressed by existing lines to take.
- not merely be a question of whether we use our enforcement powers in relation to a clear breach.
- engage a range of ICO interests meaning that the case cannot simply be resolved through existing casework/enforcement/policy procedures.
- need a significant amount of work to decide on our position/approach.
- be such that our response is likely to come under detailed scrutiny whether as a result of media attention or otherwise.

### Process

Cases falling within scope will be referred to the Government and Society Team in Strategic Liaison (subject to the agreement of

the relevant Head of Department when they are being referred from another team).

- the Head of Strategic Liaison will, in consultation with other HoDs where appropriate, assign someone to take the lead in the case. This is most likely to be someone from within SL but could also be someone from within PD or Operations depending on the nature of the case.
- if the Head of Strategic Liaison, after consultation as necessary, does not consider that the case falls within the scope of this process it can be passed to Complaints Resolution or Policy Delivery to be handled under the usual casework or policy procedure.
- the person taking the lead will, depending on the case, be able to assemble a group from across the office to provide guidance and practical assistance in taking the case forward. SL, PD and Operations are all committed to providing the necessary assistance at the right level even if they are not leading the case.
- before any final decision on the case is reached a review group should be assembled to ensure that the outcome has cross office support. Corporate Affairs should be involved in any review group.
- the final decision will be signed off by the Director of Data Protection.
- this process will not extend to any straightforward decision on whether or not to take enforcement action. However one outcome of this process could be the referral of the case to the Enforcement Team to consider whether enforcement action is warranted in the light of our enforcement policy. Enforcement might nevertheless use the review group process before any final enforcement decision is taken in high profile cases which engage significant other ICO interests.
- as far as possible we will write up our conclusions in these cases in the form of a reasoned opinion or position statement with a view to publication. We should be able to demonstrate publicly, as we would with an FoI decision notice, enforcement notice or monetary penalty notice how we have come to the conclusions that we have reached.

- although proper record keeping is required in these cases numbers will be small. They will not be managed as casework through CMEH. Whoever is taking the lead will be responsible for ensuring that the 'complainant' is kept informed of progress.

**David Smith**  
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