

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 December 2023

Public Authority: Information Commissioner's Office
Address: Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Decision (including any steps ordered)

1. The complainant has requested information relating to the bodies that oversee the ICO. The ICO applied section 21 (information reasonably accessible to applicant via other means) of FOIA.
2. The Commissioner's decision is that section 21 applies to the requested information. He's also satisfied that the ICO identified all information that would fall within the scope of the request.
3. The Commissioner does not require further steps.

Naming

4. In this case the Information Commissioner is both the public authority which is the subject of the complaint and the regulator of FOIA responsible for investigating the complaint.
5. The notice will use the term "ICO" (Information Commissioner's Office) when referring to the Information Commissioner as the public authority subject to the complaint, and the term "Commissioner" when referring to him as the regulator.

Request and response

6. On 4 September 2023, the complainant wrote to ICO and requested:

“Who Governs your Service and who Assesses your Service”

7. The ICO responded on 11 September 2023. It pointed to a response (to a previous request for information from the complainant) where it explained:

“We do not hold information in the scope of your request. This is because the ICO is not accountable, overseen or governed by any other organisation.

We can advise that the Department for Science, Innovation and Technology (DSIT) is the ICO’s sponsoring department within Government. More information about this is available here.¹ We can also advise that complaints about the ICO can be considered by the Parliamentary and Health Service Ombudsman [PHSO]², once our own complaint procedure has been exhausted.”

8. The complainant requested an internal review on 12 September 2023, they stated:

“Please review the case, you have failed to provide all the information.”

9. Following an internal review the ICO wrote to the complainant on 12 September 2023. It partly upheld the internal review, noting that further information was held and directing the complainant to the ICO’s website.³

10. It confirmed that this information, and the information it had previously provided in response to this, and previous requests, was all available on the ICO’s website. Therefore the ICO applied section 21.

¹ [Relationship with the Department for Science, Innovation and Technology | ICO](#)

² [Welcome to the Parliamentary and Health Service Ombudsman | Parliamentary and Health Service Ombudsman \(PHSO\)](#)

³ [Decision making structure | ICO](#)

Reasons for decision

Section 21 – information reasonably accessible to applicant via other means

11. Information is exempt from disclosure under FOIA if it's accessible to the requestor by other means.
12. Section 21 is an absolute exemption. This means if section 21 applies there is no requirement to carry out a public interest test.
13. Unlike most exemptions, the circumstances of the requestor can be considered, as the information must be reasonably accessible to the particular requestor.
14. The Commissioner considers that it's reasonable for a public authority to assume that information is reasonably accessible to the requestor until it becomes aware of any evidence to the contrary.
15. The complainant has communicated with the ICO via email. Therefore, it's a reasonable assumption that the complainant has access to the internet and can access the requested information via the links to its website that the ICO has provided.
16. The complainant hasn't explained to the ICO why they would be unable to access the links to the ICO's website.
17. The Commissioner has looked at what's being requested and the links that the ICO provided. He's satisfied that the information the ICO has provided, via its website, fulfils the request. The Commissioner is satisfied that the ICO was entitled to apply section 21 to refuse the request.

Section 1 – general right of access

18. When the complainant raised their complaint with the Commissioner, they failed to clarify what the specific grounds of their complaint were, only that they were dissatisfied with the ICO's handling of their request.
19. For completeness, the Commissioner has also considered whether the ICO has identified all of the information that would fall within the scope of the request.
20. In cases where a dispute arises over the recorded information held by a public authority at the time of a request, the Commissioner, following the outcome of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities. This means that the Commissioner will determine whether it is likely, or unlikely, that the

public authority held information relevant to the complainant's request at the time that the request was received.

21. In their request, the complainant is asking a specific question and the ICO has answered this question. The ICO is obligated to proactively publish information relating to its governance, and its decision-making structure, on its website. It follows that the information the complainant is requesting will be reasonably accessible to the majority of people and in the public domain.
22. On the balance of probabilities, and in the absence of any further explanation from the complainant, the Commissioner is satisfied that the ICO has identified all of the information that would fall within the scope of the request.

Right of appeal

23. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

24. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
25. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Alice Gradwell
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF