

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 20 July 2021

**Public Authority:** The Information Commissioner's Office  
(ICO)

**Address:** Wycliffe House  
Water Lane  
Wilmslow  
SK9 5AF

### Decision (including any steps ordered)

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1. The complainant requested information on 12 November 2019 relating to the Pay Consistency Panel at the ICO. The ICO provided information in response to the request to the complainant's satisfaction on 6 July 2021. The ICO therefore failed to respond to this request fully within the statutory time for compliance.
2. The Commissioner considers that the ICO has breached section 10(1) FOIA in the handling of this request.
3. The Commissioner requires no steps to be taken.

### Request and response

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4. On 12 November 2019 the complainant requested information of the following description:  
  
'The total number of appeals, including a breakdown by grade and department  
  
The total of bandings changed and not changed, including a breakdown by grade and department  
  
In addition, please provide details of the members of the PCP determining the appeals, and all documentation produced by or for the PCP appeals process.'
5. On 23 December 2019 the ICO responded and provided a document consisting of information concerning the appeals process.

6. On 6 January 2020, the complainant responded to the ICO and questioned whether all of the information held had been provided.
7. The ICO responded on 14 February 2020 with an email answering six separate points and with two further documents for disclosure.
8. On 27 February 2020 the complainant sent a further email to the ICO regarding the above request.
9. On 5 March 2020 the complainant again wrote to the ICO expressing his dissatisfaction with the extent of information provided. He stipulated that he wished to receive the 6 outcome letters to staff members whose appeals were upheld.
10. On 2 December 2020 the ICO provided the complainant with the internal review. In relation to the 6 outcome letters, the ICO provided a response but in relation to all 84 outcome letters (not just the 6 letters where the appeals were upheld). It did not specifically apply an exemption but raised concerns that as a result of disclosure data subjects could be identified (even with names redacted). It said that this was because some of the specific issues raised in individual appeals may enable data subjects to be identified.

### **Scope of the case**

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11. The complainant contacted the Commissioner as he considered that the ICO had failed to locate all information held falling within the scope of his request and that some information located had not been provided.
12. The Commissioner considered whether the ICO had located all information held falling within the scope of the request and also whether the 6 outcome letters could be disclosed as it appeared these may have been withheld under section 40(2) FOIA (third party personal data).
13. During the course of the Commissioner's investigation, on 6 July 2021, the ICO provided the complainant with the 6 outcome letters with some redactions under section 40(2) FOIA. It also confirmed that no further information was held.
14. The complainant then confirmed he was satisfied with the ICO's disclosure but requested the Commissioner to consider whether the ICO had complied with its obligations under section 10(1) FOIA in its handling of this request.

## Reasons for decision

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15. Section 10(1) provides that:

*"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."*

16. Section 1(1) provides that:

*"Any person making a request for information to a public authority is entitled –*

*(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*

*(b) if that is the case, to have that information communicated to him."*

17. The original request was made on 12 November 2019 and the response disclosing the 6 redacted outcome letters was not provided until 6 July 2021 following the Commissioner's involvement. The Commissioner therefore finds that the ICO breached section 10(1) in failing to provide all information held which was not exempt within 20 working days.

## Right of appeal

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18. 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: 0300 1234504

Fax: 0870 739 5836

Email: [grc@Justice.gov.uk](mailto:grc@Justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

19. 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.
20. 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.....**

**Gemma Garvey**

**Senior Case Officer**

**Information Commissioner's Office**

**Wycliffe House**

**Water Lane**

**Wilmslow**

**Cheshire**

**SK9 5AF**