



National Audit Office

The UK's independent public spending
watchdog

Switchboard +44 (0)207 798 7000

Direct Line +44 (0)207 798 7264

Email FOI@nao.org.uk

Reference FOI-1630

Date 12th July 2023

NATIONAL AUDIT OFFICE DATA PROTECTION COMPLIANCE

Thank you for your request of Thursday 15th June 2023 for various documents relating to the National Audit Office's Data Protection Compliance.

Your request was considered in accordance with the terms of the Freedom of Information Act 2000 (FOIA). Your specific request is reproduced at **Annex A** for your reference along with our response.

The FOIA provides a legal right of access to recorded information held by a public authority, but it is subject to certain exemptions that may apply. While we hold information in scope of your request, having considered it, we are refusing to supply you with the information you requested under section 12 cost of compliance, and section 21 information accessible to applicant by other means, under the FOIA. Details of these exemptions, and how they apply to your request can be found at **Annex B**.

Annex C sets out the steps you may wish to take if you are not satisfied with the way we have handled your request for information under the FOIA.

Yours sincerely

NAO FOI Team



Annex A

Request for information about 'National Audit Office's Data Protection Compliance'

Freedom of Information Questions

(Your request is in italics)

1. A copy of your organisation's Records of Processing Activity (ROPA) as defined in Article 30 of the UK General Data Protection Regulation (UK GDPR).
2. A copy of all legitimate interest assessments conducted by your organisation where you rely on Article 6(1)(f) legitimate interests as your lawful basis for processing.
3. A copy of all privacy impact assessments conducted by your organisation.
4. A copy of all data protection impact assessments conducted by your organisation.
5. A copy of all international transfer risk assessments conducted by your organisation.
6. A recent copy of your organisation's data protection compliance assessment using the Information Commissioner's Office (ICO)'s accountability framework template. If you are using your own standards to monitor compliance with the Data Protection 2018, please provide me with copy of it.
7. A copy of your organization's data protection policy.
8. A copy of your organization's subject access request policy, procedures, and processes, including any guidance material such as folder structure, naming conventions, and redaction guides.
9. A copy of your organisation's privacy notices, including but not limited to employees, customers, ministers, special advisors (SPADs), complaints, NEDS, visitors, and CCTV.
10. A copy of your organisation's due diligence questions for vendor management such as independent data controllers or processors.

NAO response

We consider the information you have requested to be exempt from disclosure under section 12 and section 21 of the FOIA.

The National Audit Office audit records run to thousands of documents. While you have suggested a search of our compliance platform and Microsoft estate for the information you have requested, as your request currently stands, we would need to extract and review a huge amount of data. Therefore, in order to comply with your request, the cost of extracting the information from our audit files would be above the appropriate cost limit set out in section 12 of the FOIA. As a result, we are refusing to disclose the information you have requested under section 12.

You may wish to submit a refined, more focused request. However, I should note that a considerable amount of the information held is likely to be sensitive and may require us to apply other exemptions.

We have applied section 21 (information accessible to applicant by other means) to your request regarding the NAO's privacy notice, data protection and subject access request guidance. Under this exemption, we are not obliged to provide this information, however you can access the details [here](#)

Further details on the application of these exemptions can be found at **Annex B**.

Annex B

This annex sets out the exemption that we have applied to your request

Section 12 Freedom of Information Act 2000 (FOIA)

Section 12(1) – (4) are as follows:

12. — (1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.

(3) In subsections (1) and (2) “the appropriate limit” means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.

(4) The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority-

(a) by one person, or

(b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.

Section 12 of the FOIA allows a public authority, such as the NAO, to refuse a request if the cost of complying with the request would exceed the ‘appropriate limit’ as defined by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

The Regulations stipulate that the appropriate limit to be applied to requests received by public authorities such as the NAO is £450. For the purposes of the estimate, the costs of performing these activities should be estimated at a rate of £25 per hour. This is therefore equivalent to 18 hours work.

In estimating the cost of complying with a request for information, a public body can only take into account any reasonable costs incurred in:

(a) determining whether it holds the information,

(b) locating the information, or a document which may contain the information,

(c) retrieving the information, or a document which may contain the information, and

(d) extracting the information from a document containing it.

The section 12 exemption provides for a judgement to be made of whether the request will exceed the 18 hour threshold before any work is undertaken. To help us make this judgement we have estimated the time required to locate and retrieve the information you requested.

There is a large amount of material relevant to this request and we estimate that we would need to access over 2,000 financial audits, 300 value for money studies, 150 investigations and 100 corporate change projects to locate and retrieve individual impact assessments. We would need to put access arrangements in place for those people undertaking the review of secure audit files. In many cases this would require the work to be conducted by our Departmental Security Officer – a senior staff member who has the necessary security clearance to access information relating to sensitive audit work. Allowing an average time of 30 minutes to access and review each audit or project file, we estimate that this would take over 1,200 hours in total. As a result, we are refusing your request under section 12 of the Freedom of Information Act 2000. The cost of complying with the request would be far in excess of the appropriate cost limit and further, it would be disproportionately burdensome for the NAO to comply with in terms of resources and time.

Section 21 Freedom of Information Act 2000 – Information accessible to applicant by other means.

(1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.

(2) For the purposes of subsection (1) -

(a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and

(b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.

(3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.

Reasons why we have applied the Section 21 exemption:

We are not obliged, under Section 21 of the FOIA, to provide information that is reasonably accessible to you. The NAO's Privacy Notice, Data Protection and Subject Access Request guidance is in the public domain. Section 21 is an absolute exemption and is not subject to the Public Interest Test.

Annex C

Statement of Policy

Our policy is to respond to requests made under the Freedom of Information Act 2000 as helpfully and promptly as possible, having regard to the principles set out in the Act. I therefore hope you are happy with the way we have handled your request. If you are not, then you should take the following steps.

In the first instance, within 40 working days, write to the National Audit Office Freedom of Information (FOI) Team at FOI.requests@nao.org.uk or by post to: FOI Team, Green 2, National Audit Office, 157-197 Buckingham Palace Road, London, SW1W 9SP. The Head of FOI will arrange a review, which will be conducted by a senior member of staff who was not involved in decisions relating to your original request.

Once the review has been completed, we will write informing you of the outcome. If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The primary way of escalating your concerns to the Information Commissioner is at: www.ico.org.uk/foicomplaints. Alternatively, you can contact the ICO at [Contact us | ICO](#) or Information Commissioner's Office Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF.