

Reference: 01724881

Information Requests  
[information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk)

15 December 2023

## Freedom of Information request: Right to know request

Thank you for your request for information concerning complaints about the failure of code operators to comply with 2003 guidance. This request was received on 27 November 2023 and we have considered it under the Freedom of Information Act 2000 (the “FOI Act”).

### Your request & our response

*With reference to the Electronic Communications (Conditions and Restrictions) Regulations 2003;*

*This request under the Freedom of Information Act seeks to find:*

*The number of complaints received by Ofcom against code operators concerning failures to comply with the 2003 Regulations:*

*1. From the period 2003 until March 2023 - an annual figure for each year, please;*

*1a: Within those annual figures, the number of complaints from local planning authorities in England in each year, please;*

*1b: The number of investigations conducted by Ofcom that resulted from those complaints each year, please.*

*2. Specifically the number of complaints in the period from 1st April 2023 until the end of November 2023 - a monthly figure for each month, please;*

*2a: Within those monthly figures, the number of complaints from local planning authorities in England each month, please;*

*2b: The number of investigations conducted by Ofcom that resulted from those complaints in each month, please.*

*3. Where Ofcom investigations took place resulting from complaints from local planning authorities between 1st April 2023 and the end of November 2023, the number of those that led to enforcement action being taken against a code operator.*

*4. In summary, what kind of enforcement actions did Ofcom undertake? A response in a top ten*

*format would be useful here i.e. 1. those actions that are typical and most frequently applied at the top, and actions less frequently applied at 2, 3, 4, etc.*

We are unable to provide the information you requested as some of the information is not readily accessible and a considerable amount of time would be required to locate, retrieve, identify and extract all the information specified in your request, including confirmation of whether we hold any information in respect of the questions.

We would need to search and read through the complaints received in this area to determine if the information held was in scope of your request, before then counting said complaints to give the numbers requested. Many of the complaints that we receive come from members of the public rather than local planning authorities, however as these complaints are not held centrally, we would still need to review every complaint within the given timeframe to determine if they came from local planning authorities.

Section 12 of the Act provides that we are not obliged to comply with a request for information if we estimate that the cost of complying with the request would exceed the “appropriate limit”. The appropriate limit is set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the “Regulations”), and is, for Ofcom, £450. That sum is intended to cover the estimated costs involved in determining whether Ofcom holds the information requested, locating, retrieving and extracting the information from any document containing it. The Regulations provide that costs are to be estimated at a rate of £25 per person per hour, which equates to 18 hours of time. We estimate that it would take us more than 18 hours to locate, retrieve, identify and extract all the information specified.

You may wish to consider submitting a narrower request and we would be happy to consider this under the FOI Act, for example, you may narrow your request to investigations undertaken in 2023 relating to compliance with the Electronic Communications (Conditions and Restrictions) Regulations 2003. Please note that Ofcom publish information on investigations that it carries out in their enforcement bulletin here: [Enforcement Bulletin - Ofcom](#)

Should you decide to make a further request for information, please note that other exemptions may apply (for further information on the exemptions under the FOI Act, see the Information Commissioner's Office's website e.g. [When can we refuse a request for information? | ICO](#)).

If you have any further queries, then please send them to [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk) quoting the reference number above in any future communications.

Yours sincerely

## Information Requests

If you are unhappy with the response you have received in relation to your request for information and/or consider that your request was refused without a reason valid under the law, you may ask for an internal review. If you ask us for an internal review of our decision, it will be subject to an independent review within Ofcom.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

Timing

If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for responding to internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk)

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. Further information about this, and the internal review process can be found on the Information Commissioner's Office [here](#). Alternatively, the Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF