

The ICO's regulatory approach during Covid-19 – 24th April 2020

The Information Commissioner's Office (ICO) acknowledges that the current circumstances are exceptional and such, will be taking a pragmatic and empathic approach when carrying out its regulatory functions; having regard to the fact that some organisations will be facing staff shortages, financial difficulties and significant pressures on frontline services.

The ICO does not consider that data protection legislation should prevent organisations taking the steps they need to in order to keep the public safe and supported during the present public health emergency. There is plenty of flexibility built in to the legislation for organisations to use in these times, including some specific public health related exemptions.

With regards to data protection, the following guiding principles will apply to regulatory action during the Pandemic:

- a) decisions regarding fines/regulatory action against organisations will take account of difficulties arising from the crisis, which the ICO says is likely to reduce the level of fines temporarily.
- b) the ICO may not enforce against organisations who fail to pay or renew their data protection fee, if they can evidence that this is specifically due to economic reasons linked to the present situation, and provided the ICO are adequately assured as to the timescale within which payment will be made.
- c) the ICO will take account of the impact of the crisis on organisations subject to investigations, allowing longer periods to respond where necessary.
- d) all formal regulatory action in connection with outstanding information request backlogs will be suspended.
- e) the ICO recognises that organisations may have a reduced ability to respond to subject access requests where they need to prioritise other work to deal with the current crisis, and will take this into account when considering whether to take enforcement action.
- f) organisations should continue to report data breaches without undue delay and within 72 hours of becoming aware of the breach;
- g) when handling the public's complaints about organisations, the ICO will take into account the impact of the crisis. This may mean they resolve the complaint without contacting an organisation, for example if it is focusing its resources on the coronavirus frontline, or that the ICO may give it longer than usual to respond or to rectify any breaches associated with delay if it is recovering its service and gradually improving timescales.

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