

# Freedom of Information

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## Headlines

- ICO updates FOIA and EIRs guidance, p.18
- Nottingham City Council ordered to publish spending report, p.19
- Home Office refuses request on asylum seekers on cost grounds, p.20

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## ICO demands urgent action from police body with huge FOI backlog

The Information Commissioner's Office has issued an [Enforcement Notice](#) to Greater Manchester Police ('GMP') for repeated failures to respond to Freedom of Information Act requests.

The Enforcement Notice follows the Practice Recommendation issued to the GMP in February 2023.

The public authority currently has a backlog of 850 overdue requests. More than 800 of those are over six months old and 580 are over a year old. The oldest open request was submitted

around two and a half years ago.

The GMP attempted to assure the Commissioner that it has an action plan in place to clear its backlog, with a suggested timeframe of December 2024 for completion.

However, the Commissioner said that despite being made in good faith, the promised timeframe was unacceptable.

"The Commissioner recognises that a backlog of this scale cannot be cleared overnight, but GMP's suggested deadline for the amount of re-

quests involved is beyond the amount of time he could tolerate. Given the scale of the issue, a binding, enforceable commitment is also needed", the Enforcement Notice states.

"The Commissioner recognises that priorities can change considerably from month to month. Without an enforceable deadline, there is nothing to prevent 'December 2024' slipping to 'January 2025' and so on and so forth", it adds.

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## Court of Appeal rules against Commissioner in FOI case

The Court of Appeal has ruled against the Information Commissioner's Office in a Freedom of Information Act 2000 appeal regarding the ability to aggregate public interest factors for and against disclosure when applying exemptions under the Act.

The Department for Business and Trade appealed a judgment from the Upper Tribunal that the public interest exemption cannot be combined

when more than one exemption applies to the same information. The ICO had argued that the Upper Tribunal's judgment was correct, and the Act is clearly structured to allow sequential consideration of single exemptions rather than aggregation.

However, upholding the appeal, the Court of Appeal concluded that section 2(2)(b) of FOIA does permit the public interest to be aggregated when

deciding whether the public interest in maintaining the exemption of information from disclosure, outweighs the public interest in its disclosure.

The ICO is considering its next steps.

The decision has significant implications for public authorities' application of exemptions. See the case update on page 9 for expert commentary.