

Delivering a better FOI service

Responses to the consultation
on a prioritisation framework
for handling FOI/EIR complaints



ico.

Information Commissioner's Office



Information Commissioner's foreword

In November 2022, we consulted on a proposal for prioritising some of our Freedom of Information (FOI) and Environmental Information Regulations (EIR) complaints. We asked for feedback on the concept of prioritising FOI casework generally, as well some specifics of the proposed framework, including the prioritisation criteria, use of our powers to refuse to deal with certain complaints, and our planned measures of success.

When I launched ICO25, our three-year strategic plan, I set out that the ICO's regulation of FOI is one of doing more with less in real terms, year on year. That means trying different approaches to improve the system.

We have carefully considered the comments and responses to our consultation survey, along with feedback from engagement sessions we had with a variety of stakeholders on our proposals.

The new prioritisation framework is part of several changes in approach to develop a sustainable and ambitious case handling programme, with the aim of improving response times for everyone that brings a complaint to us, not just for prioritised cases. These changes in approach include:

- Prioritising cases in the highest public interest;
- Resolving cases through dispute resolution techniques where appropriate;
- Resolving cases early wherever possible;
- More support for public authorities to help them get it right first time; and
- Improving the quality of public authority decision-making when requests are first made.

We will, of course, continue to make improvements in the way we treat **all** the complaints we receive. But to ensure the highest impact from our allocated resources, prioritisation means we will handle those cases that meet our criteria at pace at all stages. This will provide regulatory certainty to the requester about our decision as quickly as possible. Prioritisation does not mean that we will predetermine the outcome of a case. We will uphold the complaint, or we will not, based on the evidence we see and irrespective of whether it is prioritised.

We will be doing everything we can to expedite those public interest matters that meet the criteria discussed in this report. But for the policy to work will need the support of and commitment from the public authorities involved to also accord those cases priority in their work plans. I hope that we are able to count on that to ensure that we can demonstrate to the public, we can make this legislation function as its designers intended.

John Edwards

UK Information Commissioner

What we consulted on

The consultation set out, and asked for views on, how we propose to prioritise our FOI and EIR complaint handling so that, where needed, we can focus quickly on cases that are of significant public interest. It explained how we have worked up to now and our proposed changes to better prioritise our work.

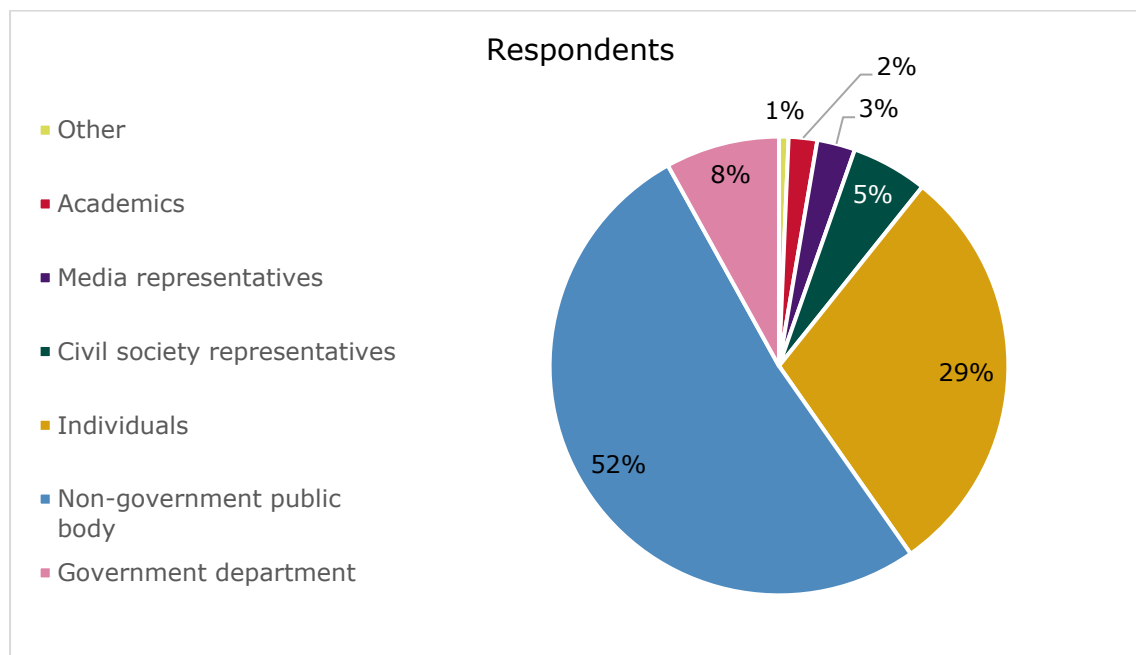
The criteria

The proposed criteria we consulted on were:

- Is there a high public interest in the information requested? Does it raise a novel or clearly high-profile issue that we should look at quickly? This may include whether:
 - the case is subject to significant media interest (or may be in the future, if a journalist makes the request);
 - the case concerns an issue that involves a large amount of public money, either nationally or in the context of the size of the public body involved; or
 - the requester needs the information to respond to a live and significant public consultation and the time for achieving resolution is reasonable to inform the decision-making process.
- Is the requester a person or group who is raising information rights awareness, supporting vulnerable groups, or raising awareness of potentially significant public interest issues? This may include a request from:
 - a journalist;
 - a civil society group, or otherwise on behalf of others; or
 - an elected representative.
- Are vulnerable groups or people potentially significantly affected by the information requested? This may include information:
 - which covers policies, events or other matters that potentially have a significant impact on vulnerable people or groups;
 - that has a high potential impact or harm on a proportionately substantial number of people nationally or in a particular locality; or
 - that may directly affect the requester's health or another issue, that means they need a swift resolution (eg, it may impact on treatment or is about a live court case).
- Would prioritisation have significant operational benefits or support those regulated? For example, is the request:
 - novel, or could provide the basis for guidance or support for other regulated bodies;
 - linked to a response to several similar cases, and quick resolution would help this; or
 - part of a round robin request.

Respondents

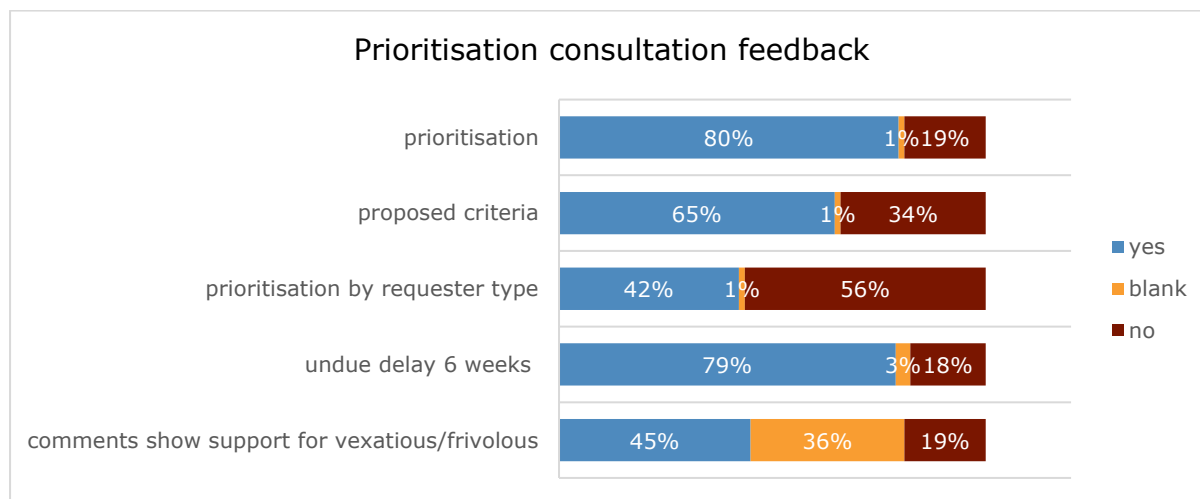
Overall we received 149 responses to our consultation survey (31 by email). The largest proportion of responses was from public sector representatives outside of central government (77), with individuals making up the next largest proportion (44). Over half of respondents (89) were representatives of public sector bodies, including the UK government, whilst the remaining respondents (60) could be classified as requesters, such as journalists, academics, civil society groups or individuals.



We held separate engagement sessions with UK government departmental practitioners, civil society, media representatives and local government practitioners. We also received detailed representations directly from central government. We have incorporated the comments and feedback from these sources into the feedback highlighted below, however they are not included as part of any charts or numbers presented.

Survey Results - summary

The consultation showed overall support for the prioritisation framework proposals. The exception to this was using requester type as a criteria, where the feedback was mixed, with more respondents against using this criterion than supporting it.



Overall, it was a positive response to our proposals. The feedback was broadly supportive of implementing a prioritisation framework with 80% of respondents in favour. There was also strong support for considering complaints ineligible if they are brought to us more than 6 weeks after the last meaningful contact with the public authority unless there is good reason for the delay. The previous period was 3 months.

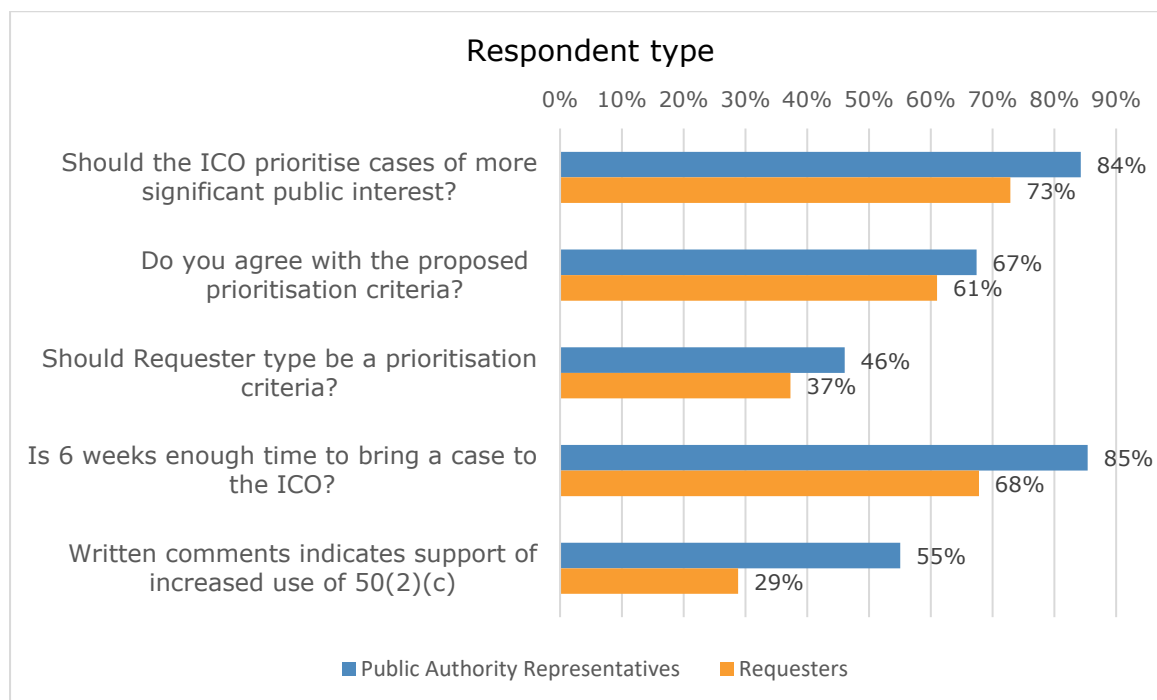
The feedback indicates support for improved service standards and key performance indicators, with some challenge about whether we could go even further, which we are committed to keep under review once we are achieving the new standards we've already set ourselves. Comments also supported the increased transparency around our proposed service standards and invited us to publish more data about our casework.

Based on the feedback received we have made a number of changes, including:

- Clarifying and refining the public interest criteria to provide clear guidance and expectations about what will and will not be prioritised.
- Refining the requester type as a public interest criteria to reflect the feedback received.
- Clarifying and refining our use of the vexatious and frivolous complaints provisions we outlined to make clear how these will work in practice.

Breakdown by respondent type

To ensure a balanced analysis, we have also considered the data with reference to the nature of the respondent, broadly splitting them into representatives of public bodies responding to requests, and requesters themselves. This is because these two groups want, need, and expect different things from the ICO's FOI case handling processes, so it is important that we understand the views and opinions of both.



This demonstrates that both types of respondent broadly support the prioritisation approach, with requesters tracking 6-17% behind representatives from public authorities in most fields. However, as might be expected, requesters tracked 26% behind public authorities in their support of the increased use the frivolous and vexatious complaint provisions.

Survey Results - comments

To support the summary of the responses, we will set out the key comments and views provided in relation to each of the questions. This provides a closer look at the sentiments and constructive feedback behind the data itself.

Question 1: Do you agree that, to maximise the benefit from the resources available to the Commissioner for his work on access to information complaints, he should prioritise cases of more significant public interest rather than continuing the 'cab rank' approach of dealing with cases in date order? If you don't agree, please explain why?

Key comments supporting prioritisation included:

- "Prioritisation can be used to strategically attack problems with large systematic impact. In general, better system wide impact may be had by using freed-up time to support use of legal enforcement powers, rather than different case work."
- "It is helpful that such an approach is accompanied by the factors/guidance explaining the nature of the criteria that constitute 'more significant' public interest, this supports openness and transparency."
- "We have ultimately decided that it is a sensible decision for the ICO to ensure information that matters most to a large portion of the population is prioritised."
- "Absolutely [agree with prioritisation]. Many FOI requests are defeated by the delay in response. Furthermore the delay in dealing with public interest cases encourages misbehaviour by public authorities, because they know they can stall or refuse requests for inappropriate reasons with little or no consequence."
- "the factors that would support prioritisation allow for those situations where there is a clear high public interest in the information requested and a more rapid consideration and response would be helpful to address and issue of public interest or concern."
- "Although there is merit in 'cherry picking' for key complaints to be resolved more swiftly, this threshold should be high and very few and far between. The criteria for this must be very specific."
- "While the proactive application of prioritisation is extremely welcomed, assessment criteria should be narrowly constructed to ensure complaints addressing prominent issues of significant public interest are expedited, while having a minimal impact on the broader caseload."
- "we agree it would benefit the complainant and the public body for early resolution where there are clear precedents set and the Information Commissioner has an existing position on the requested information."
- "The time taken to deal with a complaint needs to be vastly shortened, and government departments should not be able to delay submissions to the ICO when they've already delayed responding to a request for

months. If these government departments can't come up with anything better than a pro forma, standard issue excuse for not releasing the information, the ICO should immediately rule in the requester's favour."

Key comments challenging prioritisation include:

- "the 'little' person will be forgotten and that access to information is a fundamental right that may be undermined by applying preferential treatment to certain cases."
- "concern that this could create an additional burden on public authorities that regularly deal with high profile issues and/or that deal with different aspects of the same issue which may result in overlapping requests requiring consultation between different public authorities."
- "the process proposed does not offer a fair and consistent service to requestors, requests should be dealt with on a date order basis as applicants shouldn't have to wait several months for a response just because their request does not meet the ICO priority factors. There is a danger of creating a two tier system that goes against the applicant blind nature of FOI."
- "[We] believe[s] that individual complaints should only be prioritised over other complaints in truly exceptional cases, where there is an objective urgency to deciding the complaint and where the Commissioner is satisfied that doing so is justified."
- "We do not support the proposal of the ICO making a decision solely on the information available to them when they receive the complaint. In cases where the ICO is considering not upholding the Department's decision, we would wish to have an opportunity to further explain and reinforce our decision-making process to the case officer."

Question 2: Do you agree with the proposed factors that will inform the ICO's decisions on which cases to prioritise? If not, which do you not agree with and why? Are there any additional factors you would include?

Key comments supporting the proposed criteria include:

- "[We] support[s] the proposed factors in principle but would welcome further clarification of the thresholds for phrases which are subjective (such as 'significant media interest' or 'involves large amount of public money')."
- "It is important too that consideration is given to the source of the request and considering those supporting vulnerable groups affected by the information requested, or groups who are raising awareness of potentially significant public interest issues."
- "Prioritisation factors focusing on the impact of the complaint and vulnerability of persons affected by the request / information are certainly

welcome, and ensure that scarce resources can be specifically targeted to areas where there will be a significant and immediate impact.”

- “Government’s now disbanded Clearing House unfairly vetted requests from journalists and should a similar scenario occur again, swift processes on priority case appeals to the ICO from allocation to completion would prove beneficial.”
- “Recalcitrant public bodies know the delays in the system, and can refuse requests on weak public interest grounds knowing it will take a year for the ICO to uphold a complaint. By this time, the information may well be less relevant, and the public debate has moved on.”

Key challenges to the proposed criteria include:

- “Significant media interest should not be a factor on its own. This should be qualified as the media are not neutral, are subject to various biases and may provide disproportionate attention to trivial matters or matters that are arguably not in the public interest (e.g. invasions of privacy and unsubstantiated allegations).”
- “We think that what constitutes significant media interest needs to be clarified. We suggest that such interest is defined in terms of matters that would reasonably be expected to be the subject of serious coverage by a public service broadcaster or print media equivalent. This would help avoid the risk of prioritising cases that concern far-fetched matters, such as conspiracies. Such cases may be subject to extensive social media interest, but we do not consider that that is a reliable guide of genuine public interest.”
- “Complaints should not be prioritised on an assessment of the ‘public interest’, especially where the factors to be considered are subjective.”
- “Given the possible demand for prioritisation, it is important they are clearly focused on potential impact - in other words, the most important criterion is that requests are prioritised where the information (if released) would matter significantly to a large number of people. The next factor should be priority where time is of the essence and early resolution has important consequences.”

Additional factors suggested:

- “I agree with the factors but would suggest another one: where the organisation complained about is under current/recent ICO FOI Performance monitoring, or is one where the ICO has received frequent recent complaints.”
- “Timings of the disclosure should also be a consideration should this proposal go ahead, for example if there are ongoing processes and/or the utility of the disclosure would be significantly affected by undue delays.”
- “I very much feel cases relating to information which has significant (local, sub-regional/regional, or national) economic value should also be included

- as reflects the Government’s aspiration of ‘unlocking the power of data’ as set out in its National Data Strategy.”
- “Complaints about administrative silence/stonewalling have a key impact on journalists and seem a good candidate for a fast track response. We recommend this be included as an additional factor.”
- “We would highlight requests made in public (through, but not limited to, platforms like WhatDoTheyKnow [WDTK]) as being a factor in evaluating public interest - as the improved discoverability of the results means more information is available to the public in practice, as well as in theory.”
- “We recommend moving to a system where a certain percentage of complaints that pass a (broad) set of criteria are escalated.
 - Fast-tracking a certain percentage should be more manageable, and is adjustable based on volume, preserving the speed of the fast track, while not completely separating the two streams.
 - Sampling from a broad pool helps avoid effectively managing workflow through definitions. More loose definitions can be used, without overwhelming the system.”

Question 2a: In particular, do you agree that prioritising cases based on who has made the request is an appropriate public interest factor? If so, are there any other groups or types of requester you think should be covered?

Key comments in support of using requester type include:

- “We have heard concern from members around the potential of ICO caseworkers allocating priority to complaints concerning journalistic FOIs based on their perceived public interest relative to one another, which adds a layer of editorialisation. Some members have said this concern is satisfied because the ICO’s current proposals appear to accept that all requests from journalists would qualify for priority, which should circumvent the possibility of journalistic requests not receiving priority because ICO caseworkers do not believe them to be in the public interest.”
- “It may also be helpful if the other tests are considered first and this one only be considered after the others have not been met.”
- “It is a useful consideration when assessing a complaint for prioritisation but complaints should not be classified exclusively on this basis. Assessing the public interest of requested information and the impact of its disclosure is perhaps a safer way of ensuring resources are appropriately used.”
- “Journalists submit FOI requests with the view of publication for the benefit of wider society. Their requests will frequently raise awareness around topics of significant public interest that allow the public to scrutinise the decisions made by Government.”

- “Yes, this is important as hard to reach communities, or individuals living with disabilities or those representing vulnerable adults, children, those marginalised and other sources, may have found it more difficult to raise the issue and it is important this is given attention and brought into public domain and wider awareness.”
- “The Commissioner can provide equality to smaller and more local public interest actors and researchers with less power or resources by taking their cases forward, with the proviso that the public interest is strong, on a local level as much as a national or international level.”

Key comments challenging use of requester type include:

- “the origins of FOI were about access to information being for all and this focused clearly on the public (as opposed to media, campaigners etc.)”
- “One of the key components of the Freedom of Information Act is as an authority we should see all requesters as equal, regardless of who they are. By prioritising elected officials and journalists over other members of the public, this will effectively create a two tier system”
- “The FOIA and EIRs should be prioritised as the mechanism for the ordinary citizen to secure publication, particularly when the existing powerful facilities open to elected representatives and the established journalists have not been used, or are inadequate.”
- “FoI is intended to be applicant blind and so it should not matter who has made a request otherwise you create an information aristocracy and on the flipside information peasants.”
- “The premise of prioritising cases based on who has made the request is simply wrong and will badly erode public confidence in the FoI Act.”
- “All guidance from ICO states that responses should be viewed as being released to the wider world - why then should certain requesters get preferential treatment if releases are to be viewed as being to the general public.”
- “I disagree with journalist requests being prioritised carte blanche, as often they will send requests to multiple councils just to see if they can find a story, which may or may not exist.”
- “No, although I agree overall to prioritising who has made the request, in some cases there are certain organisations, that are a considerable drain on resources and whom send in many disparate requests to all organisations such as such as 'Taxpayers Alliance' costing public services, in an aggregated sense, vast amounts of public money and time.”
- “There are practical issues in validating who are journalists and relevant civil society groups.”
- “Journalists and politicians acting at a local level are likely to be pursuing local interests of not great (or wider) significance and it is unlikely to be right to prioritise these over national cases.”

- “The majority of respondents to our user survey indicate they believe their request is in some way of benefit to specific groups in society, or to their local community.”
- “It is well-established that the consideration of a request should be treated as applicant-blind. That requirement does not end once an application is made to the Information Commissioner.”
- “We do not think the new approach should focus on these specified types of requester – or on the identity of the requester at all. The test should be that the withheld information is of significant public interest and the request is made by a person who has an ability to contribute to public debate. This would better satisfy the applicant-blind principle than giving priority to specified groups...someone who makes requests about newsworthy matters but makes no serious effort to publicise the information would not qualify for prioritisation under this test.”

Other requester types suggested:

- Local authority social care service users
- Charities and specifically voluntary organisations
- Parental pressure groups
- Requesters with disabilities
- Academics and other researchers
- Legal Aid law firms

Question 3: Do you have any comments on the service standards (or Key Performance Indicators) we should set for dealing with our FOI and EIR complaints?

Key comments supporting proposed service standards include:

- “When handling complaints, we would urge the ICO to complete the bulk of these cases as early as possible, within the six month timeframe outlined.”
- “These are ambitious targets which may not be easy to meet. If achieved they will – together with the separately proposed action to address delays by public authorities - reinvigorate the whole FOI system.”
- “The ICO should be bold and ambitious with this new approach because if prioritised complaints are not resolved substantially faster than they currently are, the new approach will have little merit. Strong service standards or KPIs can help to drive better performance.”
- “It has been particularly frustrating to be receiving notification of ICO investigations between 6-8 months after the event. There should be a maximum 60 day deadline based on complexity”

Key comments challenging proposed service standards include:

- “completing 90% of cases within 6 months should not be at the expense of quality.”

- “We would like you to note that not only are you at the ICO facing increased pressures with unprecedented demand on your service but also here within councils we are experiencing the same pressures, the number of FOI/EIR enquiries have doubled over recent years with no additional staff or resources to deal with this increase.”
- “Due to performance indicators, to maintain compliance, forces will prioritise live cases to the detriment of cases that came in earlier but are already late and form a backlog.”
- “over application of case prioritisation may result in expedited KPIs becoming unrealistic for both the Commissioner and the responsive public authorities, diminishing the purpose of the prioritisation system itself.”
- “complex investigations should be dealt with within a specified time frame - approx. 60-90 days”
- “we are not certain that the introduction of a further level of decision-making at the initial application stage would allow the ICO to meet its targets or would result in a speedier system for all applicants.”

Suggested additional service standards included:

- “One potential service standard to consider is a commitment to resolving a percentage of prioritised complaints within an accelerated timeframe. For example, 60% of prioritised complaints resolved within three months.”
- “Making sure casework figures are regularly published is an important part in understanding the current situation beyond these headline numbers.”
- “Additional KPIs or tracking of how many requests are triggered under different criteria would be useful in reviewing if the fast stream in practice meets expectations of around 10-15% of volume.”
- “Setting a separate KPI for a shorter timespan dealing with administrative silence [Section 10 timeliness] complaints would be a good way of reflecting the ICO’s interest in the issue.”
- “Consider an indicator to measure satisfaction with the service – maybe something around fairness / sound judgements.”
- “the ICO should speed up its investigations by always using Information Notices when requesting information from authorities.”

Question 4: Do you agree that 6 weeks is sufficient time to bring a complaint to the ICO? If not, please explain why you think additional time is needed or what any exception criteria should include?

Key comments on undue delay include:

- “We ask the ICO to retain discretion to accept complaints outside the six week period where they demonstrably carry a strong public interest.”
- “the timescale should mirror paragraph 5.3 of the s45 Code of practice for submitting internal reviews i.e. 40 working days instead of 42 calendar days or 6 weeks.”

- “We are not convinced that there is any benefit to tightening this timeframe and it could be onerous for some if they are away or ill or miss the initial notification about a refusal.”
- “the Commissioner will want to be satisfied that the implementation of this deadline is not arbitrary.”

Question 5: Do you have any comments on the ICO’s approach to implementing the Commissioner’s statutory right to not make a decision where a complaint is vexatious or frivolous?

Key comments on The Commissioner increasing his use of the vexatious and frivolous complaints provision to refuse to handle cases not in the public interest include:

- “We agree in principle with this ... The ICO must take care that changes to its complaints processing do not make it easier for such authorities to refuse requests on spurious grounds.”
- “This supports the objective - to not waste public resources (the Information Commissioner’s and the public body’s) unnecessarily on vexatious and frivolous requests.”
- “Experience over past few years would suggest that ICO staff are hesitant to engage the right to not make a decision where a complaint is vexatious or frivolous. We welcome a more robust approach to early determination that the public authority has followed the ICO guidance on vexatious requests and that the complaint require no further investigation.”
- “Vexatious applicants use the ICO complaints procedure as a process to continue their vexatious behaviour and deliberately cause more work for public authorities. This is an abuse of the FOI process... FOIA is not a route for aggrieved individuals to use to vent their frustrations or continue a campaign of disruption due to not having an outcome that they desired.”
- “We have concerns about the frivolous definition... The public interest goal of the ICO is not necessarily that every bit of information released is itself in the public interest, but that the overall system of Freedom of Information works. People should be able to request information that is useful for them alone. The ability for people to do this is, across the system, in the public interest.”
- “There should be clear and consistent guidelines for determining what constitutes ‘a low public interest in the information requested’.”
- “The complainant should demonstrate why a complaint is not frivolous or vexatious and be able to contribute towards the balance in favour of the public interest test where this is questioned by the ICO.”
- “A frivolous claim is one of no serious intent and it would be wrong to read into that definition a public interest test. In accordance with the general right of access running throughout the Act, the legislative threshold for the Commissioner refusing to decide a complaint has been set high.”

The changes we have made

In light of the significant, and largely positive, feedback we received to the consultation, we plan to implement the changes we outlined. We do, however, plan to make some key amendments to the proposals to reflect much of the constructive and helpful feedback we received. We have outlined these changes below

The criteria

We are refining our public interest criteria to make them less subjective and easier to apply and to understand. The refreshed criteria (excluding the additional point on requestor type outline below) are as follows:

- **Is there a high public interest in the information requested? Does it raise a new, unique or clearly high-profile issue that we should look at quickly?** Indicators of this may include whether:
 - the case is subject to significant media interest – eg there are existing news reports related to the subject matter in the public domain;
 - the case concerns an issue that is likely to involve a large amount of public money in the context of the size of the public body involved – eg, a local council contract for provision of services across its whole area or a nationwide central government spend; or
 - the requester needs the information to respond to a live and significant public consultation and the time for achieving resolution is reasonable to inform the decision-making process.

- **Are any groups or individuals likely to be significantly affected by the information requested?** This may include information:
 - which covers policies, events or other matters that potentially have a significant impact on vulnerable people or groups;
 - that has a high potential impact or harm on a proportionately substantial number of people in relation to the information requested; or
 - that may directly affect the health or another personal issue of the requester or others, that means they need a swift resolution - eg, it may impact on treatment or is about a live court case.

- **Would prioritisation have significant operational benefits, or support those regulated?** For example, is the request:
 - novel, or could provide the basis for guidance or support for other regulated bodies;
 - part of a round robin request or otherwise linked to other requests or appeals.

We will consider the criteria in a matrix approach. This will allow us to flex the approach to prioritisation to ensure that the volume of prioritised cases at any one time remains proportionate – at between 15 and 20% of the investigation caseload. We will also take into account how many complaints we have prioritised about individual public authorities at any given time so we can consider how they may be able to respond to our prioritised queries in tighter timeframes. This will allow us to react quickly to significant events without overwhelming the system.

We will keep the criteria under review as we embed our new target operating model for FOI casework and beyond. We will consider the ease of applying the criteria, the consistency of decision making and the volumes of prioritised cases.

Requester type

There was clearly a strength of feeling in the feedback against the use of requester type as part of the criteria. We have therefore amended this, which we will add to the prioritisation matrix above. We have found the suggestions of the Campaign for Freedom of Information (CFOI) particularly constructive. The amended criterion is as follows:

- **Does the requester have the ability and desire to use the information for the benefit of the public?** This may include where the requester has:
 - A clear aim of raising awareness around a topic of significant public interest and the means or contacts to do so.
 - Access to a suitable platform to allow the public at large to use the requested information to scrutinise the decisions made in the public sector.

We recognise the feedback focusing on the requester blind principle. This criterion does not undermine this principle, which is about ensuring that those requesting information receive it if there is no valid reason to withhold it under the law, irrespective of their background or profession. The operational decisions we will make about which cases should be prioritised, which include how the requester chooses to use the information they have requested, will not affect whether the information should or should not be released. In that respect, whilst we will consider the requester in our decision to prioritise cases, our investigations will remain requester blind. We welcome the feedback we received, however, and agree that the proposal by CFOI offers a more nuanced approach that addresses some of the concerns raised and improves on our original proposal.

Vexatious and frivolous complaints

The feedback supports the Commissioner using his statutory right to not make a decision where a complaint is vexatious or frivolous. However, it also showed we need to be clearer about the circumstances when we will use this provision.

We anticipate that we will only use this statutory right in a relatively small proportion of cases:

- We define a frivolous complaint as not having any serious purpose or value and the serious treatment of which would bring FOIA into disrepute. In the context of the prioritisation framework, we interpret this to mean those requests at the very opposite end of the scale to those we would prioritise. Examples of cases we would refuse as frivolous could include requests seeking information on preparations for a zombie apocalypse, asking for all recorded information on a former prime minister's pet, or repeated requests for information the Commissioner has already made a decision on.
- We define vexatious complaints in the same way as the application of section 14(1) defines vexatious requests; looking holistically at the burden of the complaint against any serious purpose behind it. As with frivolous complaints, the Commissioner will consider both the apparent purpose of a complaint and the effect of handling it, whether intended. In some cases, the fact that a public authority has already refused to handle a request as vexatious will be a factor we will consider in determining whether any subsequent complaint to us is similarly vexatious. This type of context will form part of our holistic consideration of whether the complaint to us is vexatious. The Commissioner makes it clear that the FOI casework service will not be used as a punitive measure against a public authority when a customer has exhausted all other reasonable avenues in their engagement with it.

In relation to this, the consultation feedback showed that public authorities would welcome more support and guidance on the application of the vexatious request provisions. We commit to publishing further tools on this as part of our wider upstream work to support frontline staff managing FOI requests.

Next steps

We will implement the prioritisation framework, and associated processes and policies, as part of a new target operating model for FOI casework. The first iteration of this will be launched in April 2023. As outlined above, we will continue to review and refine the operating model over the life of ICO25 and beyond.

The prioritisation framework will harness our shifts of approach and form an integral part of our case handling processes. In this way we will meet our enduring objective of promoting openness, transparency, and accountability, supporting the development of a modern FOIA and Environmental Information (EIR) practice framework in the UK, inspiring confidence in public services and democracy.

Annex 1

Prioritisation matrix diagram

