



Via email

Dear [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Email: [REDACTED]
04.12.2023

Re: Consultation – ‘Fining Guidance’

Thank you for the opportunity to make observations on behalf of the MPS in respect of this comprehensive document. It is clearly useful for organisations to gain insight into the framework within which the Regulator is able to exercise their powers and beyond that to gain insight into the aggravating and mitigating factors that are likely to influence application. Whilst these did not provide any significant surprises, it will be useful for individual organisations to reflect on how closely their thinking mirrors this.

At a specific level, the concept of an ‘undertaking’ may well be alien to some readers. It is understandably complex given its legal origins, however, it is in our view important that guidance related to Data Law and allied matters are widely accessible. In this regard we therefore wonder whether the inclusion of some appropriate examples might be beneficial.

We welcome the Commissioner’s continued endorsement of the June 22 published ‘Approach to Public Sector Enforcement’, and the orientation towards increased use of the ICO’s wider powers, including warnings, reprimands and enforcement notices, with fines only issued in the most serious cases. As you will know, the MPS is engaged in delivering an ambitious programme of work which is improving data literacy; further strengthening the way protections and rights are delivered to data subjects; and enabling innovative use of data to deliver better outcomes for the public we serve. We therefore embrace the opportunity to work more closely with the ICO to achieve these goals. Linking back to the guidance, it would be useful to see formal inclusion of the Regulator’s current approach set out within the document on a more enduring basis and indeed how this might be applied in practice.

The guidance provides oversight of an evidently complex landscape. Whilst we recognise that it would be impossible to illustrate the application of every step of the decision making process, the limited worked examples included were illuminating. We would therefore welcome the inclusion of further examples elsewhere in the document.

I have consulted regarding the contents of this letter which represents the MPS response.

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