

Date: 21 October 2022

IC-188787-M6G8

Request

You asked us:

"On October 21st 2021 the House of Lords was informed that the Department for Education was working on a "code of accreditation" around student data processing. The Department said it would write both to the ICO and to the ed-tech companies by the end of the year.

Six months later the Department Minister claimed to peers that the work was complete and would be published by the end of March 2022.

Please can you provide the following information under the terms of the FOI act:

- (1) A copy of the approved code*
- (2) A copy of the correspondence between the DfE and the ICO between October 2021 and March 2022 pertaining to its development.*

Reference: Hansard contribution by Baroness Barran on Thursday 21 October 2021:

<https://hansard.parliament.uk/Lords/2021-10-21/debates/AE4D13AD-9A4A-46BE-A93C-2B739A49E020/SkillsAndPost-16EducationBill>

February parliamentary question:

<https://questions-statements.parliament.uk/written-questions/detail/2022-02-09/HL6145/>

We received your request on 29 August 2022. We have handled your request under the Freedom of Information Act 2000 (the FOIA).

Our response

In relation to the first point of your request for a copy of the approved code, I can confirm we hold no information in scope of your request. For context, I consider the request is premised on an incorrect assumption. You asked:

"Six months later the Department Minister claimed to peers that the work was complete and would be published by the end of March 2022."

However, having reviewed [the question posed by Lord Scriven and the answer posed by Baroness Barran](#) and I do not believe it was suggested that the Code of Practice was complete. Baroness Barran said:

"The department has now finalised the programme of work and anticipate that we will be placing a copy of the work in the House of Lords Library by the end of March 2022." (underline is my own)

My reading is that the programme of work has been finalised and a copy of that programme of work will be placed in the House of Lords Library by March 2022; it is not a reference to the code of practice.

In relation to the second part of your request for correspondence between the ICO and the DfE between October 2021 and March 2022, I can also confirm that we do not hold any information in scope of your request.

This concludes our response to your request.

A note on the PIT extension applied to this case

I am mindful that on 4 October I wrote to you advising you that I was extending the time to respond on this case to consider the public interest test (PIT). You will note that I have subsequently concluded we hold no information in scope of your request.

By way of explanation, when I sent that email to you, I believed we held information in scope of your request because we held two very short emails, which looked related, and that s.31 applied to the information. Pursuant to this belief, I wrote to the Department for Education for views on disclosure and I was considering the PIT. However, when compiling this response, I realised that my belief the emails were in scope of your request was erroneous and that they were in fact not in scope at all.

With this in mind, because there is no information in scope of the request which attracts a qualified exemption, I do not consider the PIT extension properly extended our deadline to respond. I have reverted our time to respond to the original date recorded (26 September 2022) and recorded that this response is therefore late. I sincerely apologise for this error.

Next steps

You can ask us to review our response. Please let us know in writing if you want us to carry out a review. Please do so within 40 working days.

You can read a copy of our full review procedure [here](#).

If we perform a review but you are still dissatisfied, you can complain to the ICO as regulator of the FOIA. This complaint will be handled just like a complaint made to the ICO about any other public authority.

You can [raise a complaint through our website](#).

Your information

Our [Privacy notice](#) explains what we do with the personal data you provide to us, and set out your rights. Our retention schedule can be found [here](#).

Yours sincerely



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