

ICO Position

The Information Commissioner's Office (ICO) Coronavirus guidance states that Data Protection rules remain, but are pragmatically enforced.

Many organisations faced with data protection and freedom of information compliance are concerned that due to homeworking, staff do not have access to the necessary infrastructure or information to enable them to comply with issues such as a Data Subject Access Request they receive.

The Information Commissioner's Office (ICO) Coronavirus guidance provides that complying with data protection laws should not divert vital financial and people resources away from the running of organisations and it recommends that organisations should adopt a proportionate approach to data protection practices during the pandemic.

Considering the challenges faced by businesses, the ICO states that it will take into account the staff and operating capacity shortages, demands on resources and the acute financial and cashflow pressures that affect businesses when exercising its regulatory powers. The ICO has also suspended all formal regulatory action in connection with its outstanding information request backlog.

The ICO states that it does not have the power to amend data protection laws which continue to apply to homeworking as they do to business premises and organisations should continue to report personal data breaches within the 72-hour deadline. The ICO acknowledges however, that the current crisis may affect the ability of a business to do so and that it will be sympathetic to late reporting or delays in responding to a Data Subject Access Request.

Due to a depletion in its own resources during the pandemic, the ICO states that it expects to undertake fewer investigations but it will still take strong regulatory action against any organisation breaching data protection laws to take advantage of the current crisis.

It continues to be the case that organisations should have a robust data management and security system in place when staff are working from home and that it can quickly and robustly identify, investigate and report a data breach. However, the ICO's position in the current crisis is that data protection legislation should not prevent organisations from taking the steps they need to keep their staff and the public safe and supported.

Organisations should not therefore, be overly concerned if they receive - but are unable to deal with - issues such as a DSAR during the pandemic but they should inform the data subject that there will be a delay in responding to the request and the reason for the delay.



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