



ICO TRIENNIAL REVIEW 2014

ICAEW welcomes the opportunity to comment on the *Information Commissioner's Office Triennial Review 2014: Call for Evidence* published by Ministry of Justice on 25 November 2014, a copy of which is available from this [link](#)

This response of 15 January 2015 has been prepared on behalf of ICAEW by the Business Law Committee which includes representatives from public practice and the business community. The Committee is responsible for ICAEW policy on business law issues and related submissions to legislators, regulators and other external bodies.

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MAJOR POINTS

We welcome this chance to take part in the Triennial Review of the Information Commissioner's Office. In addition to our responses to the specific questions below, we would like to emphasise that the ICO, in its current form, performs a vital role and with a significant degree of success. As a result we would caution against any unnecessary change.

RESPONSES TO SPECIFIC QUESTIONS

Q1: With regard to the ICO's functions to enforce and oversee the following:

- Freedom of Information Act 2000
- Data Protection Act 1998
- Environmental Information Regulations 2004
- Privacy and Electronic Communications Regulations 2003
- INSPIRE Regulations 2009

(a) Do you consider, in relation to any or all of the above, that the provision of their services to individual users and to organisations remains necessary? Please explain your reasons for your answer.

Yes. Nothing has changed since the ICO was set up that renders it no longer necessary. In fact the increasing use of technology such as social media suggests that the ICO is needed now more than ever. The legislation listed above is necessary to protect the privacy of all UK citizens, and there must be safeguards to prevent abuse; the ICO plays a crucial role in the prevention of any such abuse.

The guidance provided by the ICO, particularly with regard to the Data Protection Act, is very helpful as interpreting the legislation is a source of concern and difficulty for many of our members (but see point 1b below.)

(b) Do you consider that services provided by the ICO in these areas could be improved? Please explain your reasons for your answer.

It would be helpful if the ICO sought to liaise more with professional bodies when issuing guidance relevant to them. For example its guidance on the role of accountants and whether they are data processors or data controllers does not reflect the breadth of the work performed by accountants and has therefore caused confusion for some. It would be helpful in future if the ICO was to seek advice from ICAEW (or other professional accountancy bodies) before guidance relating to the accountancy profession was issued.

(c) Do you consider that services provided by the ICO could be delivered differently? Please explain your reasons for your answer, including any examples from other regulators or comparable international bodies.

We understand that the services provided by the ICO are of a good standard overall. In particular the website and the events organised by the ICO are very well regarded by our members. (See also our response to Q3 below)

Q2: Is the independence of the ICO best supported by reporting to Parliament or to a government department such as the Ministry of Justice? Please explain your reasons for your views.

The independence of the ICO can only be supported if it reports directly to Parliament. Reporting to any government department would run the risk of political influence whether perceived or real.

Q3: With continually changing technology, an increased use of social media and the internet, do you believe the ICO will continue to be fit for purpose?

Continually changing technology together with the increased use of social media and the internet does represent a continuous and continually evolving challenge to the ICO but does not necessarily render the ICO as unfit for purpose. However it is essential that the ICO is able to monitor any such changes and adapt its working practices accordingly. It will also need to ensure that it is sufficiently well resourced to be able to meet any new demands created by any such changes in technology. (See also point 4 below).

We would also like to point out that business practices and the regulatory framework are also continually evolving and so the ICO needs to be mindful of such changes as well as to changes in technology.

Q4: Do you have any additional comments you would like to submit as evidence to the review?

The experience of our members suggests that the ICO is currently under- resourced and it is this that poses a threat to its ability to perform its remit satisfactorily rather than any inherent weakness in its structure or governance. It is vital that the ICO is a robust and well-resourced organisation as this is the best way to ensure that the legislation referred to in Q.1 above (and any future legislation covering similar areas) is enforced and protects the privacy of all UK citizens.