

8 June 2023

ICO Case Reference IC-232314-W5H7

Request

On 14 May 2023 you requested the following information:

Would it be possible for you to share for the cases in the above spreadsheet [<https://ico.org.uk/media/action-weve-taken/csvs/4025055/data-security-incident-trends-q4-2022.csv>] the:

- *Outcome of the investigation if pursued*
- *Name of the organisation*
- *Penalty Amount if applied*

Please could you send me the enforcement action for the last 5 years in the format of a csv file?

Please could you send me:

- *The name of the company*
- *Date of enforcement*
- *Type e.g. reprimand*
- *Sector e.g. health*
- *Status e.g. complete*
- *Infringement*
- *Mitigating factors*
- *Remedial steps taken*
- *Further action recommended*
- *Whether related to cyber attacks Y / N (if held)*

On 25 May 2023 we asked if you could provide any clarification, but you did not reply. Therefore we have dealt with the request as worded above in accordance with the Freedom of Information Act (2000).

Response

We are refusing to respond to the request in accordance with section 14 of the FOIA. Section 1(1) of the FOIA does not oblige a public authority to comply with a request for information if the request is vexatious. This has been considered to apply because to locate, assess and prepare the relevant information for disclosure in the format requested would place a grossly oppressive burden on the ICO's time and resources.

In relation to part 1 of the request, you have asked for additional information about over 99000 data security incidents dating back to 2019. The spreadsheet you have linked to records incidents that are reported to the ICO. Once reported these are referred to the relevant team for further processing in the relevant case management system. Where appropriate, the outcomes of these cases and other information is published on our website, as part of our complaints and concerns data sets and under 'Action we've taken'. Please see the links below:

<https://ico.org.uk/about-the-ico/our-information/complaints-and-concerns-data-sets/>

<https://ico.org.uk/action-weve-taken/>

As these data incidents are dealt with by different teams (for example our Personal Data Breach team or one of our investigations teams) who in some cases use different case management systems, we don't report them all on the same spreadsheet as these are recorded slightly differently depending on the nature of the case, and in some instances it may not be lawful for us to disclose some (or all) of the details.

Some of the information you are requesting may be exempt from disclosure (and therefore not included in our published datasets. This might apply if the information relates to an ongoing matter, an identifiable individual or is considered sensitive for any other reason. Some cases are automatically restricted because an exemption under the FOIA applies to any information relating to that authority or category of information.

With this in mind, to collate and consider the information requested, for disclosure in the format requested, we would have to check in each case whether it would be lawful to disclose the information, as well as linking information from different case management systems back to individual incident numbers. This cannot be done electronically and would require us to manually check individual cases. Even if this only takes one minute per incident (and in some cases,

depending on the complexity, could be longer), this would take approximately 1650 hours.

In relation to part 2 of your request, the action we've published includes many of the details you have requested (where it has been considered appropriate to do so), but again, the information that has been included depends on the case. We appreciate your interest in any information that may not be included in either of the above pages, and why you might want this in a different format. However, there are various reasons why some information is not published, and why we publish it in the format that we do.

We've outlined some of these reasons above already, but it is also worth noting that we do not use all of the criteria you have requested to categorise the information held across all of our systems. This means we cannot filter for this electronically in all cases. For example, in the case management system used by some of our investigations teams, we do not categorise organisations by sector, and we do not record a specific category detailing 'mitigating factors' or 'remedial steps taken' which isolates the corresponding details for each of these. While some of the information on individual cases may be relevant to these criteria, locating this would involve the subjective judgment of the request handler, therefore the accuracy of any results could not be guaranteed, as this would not reflect how the information is held within our systems.

As is the case with part 1 of your request, to assess and compile all the information in the format requested would require us to check case files manually, including any relevant documentation such as case notes and correspondence, and, where required, consultations to establish whether or not disclosure would be lawful.

We would also question whether there is a case for public interest in the disclosure of information in a format that does not reflect how this is held within our systems, particularly given that we already publish detailed datasets about the incidents we deal with (including some of the information you have requested) in an accessible format that reflects how we hold the information.

In summary, we consider the current request to impose oppressive burden because:

- a substantial volume of information falls within scope of the request;
- there are real concerns about potentially exempt information;

- this potentially exempt information cannot easily be isolated as it is scattered throughout different case management system, thus requiring detailed manual searches to identify it; and
- the criteria in the request do not reflect how we hold the information.

Given the above, we estimate that it would take upwards of 1650 hours to comply with the request as a whole.

Section 14 (1) FOIA states that:

'14.—(1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.'

The ICO's guidance explains that when deciding on whether or not a request is vexatious, the key question to be asked is, *'...whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress'*.

For the above reasons and in accordance with section 14 of the FOIA we are refusing the request.

Advice and assistance

We may be able to consider requests for further details about individual incidents, cases or small groups of cases that are mentioned in our data sets or on our website. However, if the number of cases in scope is significant, we may consider whether the resource required to retrieve the information is proportionate.

Please also note that information about investigations and enforcement action may involve exemptions, particularly if any work in these areas is ongoing, and if it involves identifiable third parties.

This concludes our response to your request.

Next steps

Please come back to us in the first instance if you would like a clarification or a review of the way your request has been handled. If you remain dissatisfied you can then request a review of our decision under the FOIA or make a complaint about how your request has been handled by writing to the Information Access Team at the address below or email icoaccessinformation@ico.org.uk.

Your request for internal review should be submitted to us within 40 working days of receipt by you of this response. Any such request received after this time will only be considered at the discretion of the Commissioner.

If having exhausted the review process you are not content that your request or review has been dealt with correctly, you have a further right of appeal to this office in our capacity as the statutory complaint handler under the legislation. To make such an application, please write to our FOI Complaints & Appeals Department at the address below or visit our website if you wish to make a complaint under the Freedom of Information Act.

A copy of our review procedure can be accessed from our website [here](#).

Your rights

Our [privacy notice](#) explains what we do with the personal data you provide to us and what your rights are, with a specific entry, for example, for [an information requester](#). Our retention policy can be found [here](#).

Yours sincerely,



Information Access Team
Risk and Governance Department, Corporate Strategy and
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