

20 March 2024

IC-288928-Q0R3

Request

You asked us for the enforcement action taken for breaches of Article 5(1)(f) UK GDPR in the last 5 years.

We received your request on 19 February 2024 which was clarified on 5 March 2024.

We have handled your request under the Freedom of Information Act 2000 (the FOIA).

Our response

We confirm that we hold information in scope of your request.

The ICO publishes details of the enforcement action that we have taken on our website here: [Enforcement action | ICO](#). This includes details of the reprimands, penalty notices and enforcement notices that we have issued. However, we recognise that you can not filter by the Article that was breached. We have therefore linked the cases where we have recorded a breach of Article 5(1)(f) for you in the table below.

We have also included cases where we have recorded a breach of section 40 of the Data Protection Act 2018 which applies to data processed for law enforcement purposes.

Details of the enforcement action taken are either held on the ICO website or the National Archives website. The links below will take you to the reprimand (REP), monetary penalty (MP) or enforcement notice (EN) issued.

Year	Type	Link
2019	MP	Doorstep Dispensaree Ltd ICO (nationalarchives.gov.uk)
2019	EN	Doorstep Dispensaree Ltd ICO (nationalarchives.gov.uk)
2021	MP	Mermaids ICO (nationalarchives.gov.uk)
2021	MP	Cabinet Office ICO (nationalarchives.gov.uk)
2021	REP	Probation Board Northern Ireland ICO
2022	MP	The Tavistock & Portman NHS Foundation Trust ICO (nationalarchives.gov.uk)
2022	REP	North Yorkshire County Council ICO
2022	REP	Warrington and Halton Hospitals NHS Foundation Trust ICO
2022	REP	Bolton at Home ICO
2022	REP	Crown Prosecution Service ICO
2022	REP	Jackson Quinn ICO
2022	REP	South Wales Police ICO
2022	REP	Wakefield Council ICO
2022	REP	Secretary of State for the Home Department ICO
2022	REP	Department for Work and Pensions ICO
2022	REP	Royal Free London NHS Foundation Trust ICO
2022	REP	University Hospitals Bristol & Weston NHS Foundation Trust ICO
2022	REP	Power Leisure Bookmakers Limited ICO
2023	EN	Crown Prosecution Service ICO
2023	MP	Ministry of Defence ICO
2023	REP	Ministry of Justice ICO
2023	REP	University Hospitals Dorset NHS Foundation Trust ICO
2023	REP	Achieving for Children ICO
2023	REP	NHS Highland ICO
2023	REP	Executive Office ICO
2023	REP	Parkside Community Primary School ICO
2023	REP	Thames Valley Police ICO
2023	REP	NHS Lanarkshire ICO
2023	REP	Nottinghamshire Police ICO
2023	REP	The Patient and Client Council ICO
2023	REP	Ministry of Justice ICO
2023	REP	South Tees Hospitals NHS Trust ICO
2023	REP	Chief Constable West Mercia Police ICO
2023	REP	Chief Constable Warwickshire Police ICO
2023	REP	NHS Fife ICO
2023	REP	University Hospital of Derby and Burton NHS Trust (UHDB) ICO
2023	REP	Charnwood Borough Council ICO
2023	REP	South Tees Hospitals NHS Trust ICO
2024	REP	Chief Constable West Midlands Police ICO

We have previously responded to information requests for a copy of unpublished reprimands. A reprimand was issued to Hull University Teaching Hospitals NHS Trust in 2023 which falls within scope of your request, a redacted copy of this reprimand is available on our disclosure log here: [Disclosure Bundle - IC-259444-Q7Z6](#)

The ICO does not hold a complete record of all enforcement action taken for breaches of Article 5(1)(f) between 2019 and 2024, as some reprimand cases have since been deleted in line with our retention schedule. Further action may therefore have been taken that is not listed as it is no longer held and was not published at the time.

Because the information that you have requested is already reasonably accessible to you, technically it is withheld under section 21 of the FOIA. Section 21 states that we do not need to provide you with a copy of information when you already have access to it.

This ICO issued a further 4 reprimands in 2022 which fall within scope of your request. These reprimands have not been published; we have therefore considered whether we can disclose details of the reprimand to you. We are unable to provide details of these reprimands as this information is exempt under section 23 (information supplied by, or relating to, bodies dealing with security matters) and section 31 (law enforcement) of the FOIA. Further information is provided below.

Section 23(1) FOIA

Section 23(1) of FOIA states that, "Information held by a public authority is exempt information if it was directly or indirectly supplied to the public authority by, or relates to, any of the bodies in subsection (3)."

Some of the information you requested relates to bodies listed in subsection (3) and has therefore been withheld.

Section 31(g) FOIA

Some of the information you have requested is exempt from disclosure under section 31(1)(g) of the FOIA. We can rely on section 31(1)(g) of the FOIA where disclosure:

"would, or would be likely to, prejudice... the exercise by any public authority of its functions for any of the purposes specified in subsection (2)."

In this case, the relevant purposes contained in subsection 31(2) are 31(2)(a) and 31(2)(c) which state:

"(a) the purpose of ascertaining whether any person has failed to comply with the law" and,

"(c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise."

Section 31 is not an absolute exemption, and we must consider the prejudice or harm which may be caused by disclosure. We also have to carry out a public interest test to weigh up the factors in favour of disclosure and those against.

We are withholding the details of 4 reprimands in full due to the sensitive or technical nature of the information they contain.

Disclosure of this information, without being confident that organisations have had the opportunity to mitigate potential risks where technical or security gaps were identified, could leave organisation vulnerable to further compromise. Further, in circumstances where organisations have not yet had the opportunity to advise all affected individuals where sensitive information has been compromised could cause great distress to individuals who may find out via FOI disclosure.

In this case the public interest factor in favour of disclosing the information is:

- increased transparency in the way in which the ICO conducts its investigations; and
- the understandable public interest in the full details of the circumstances that have led to the ICO issuing a reprimand to an organisation.

The public interest factors in maintaining the exemption are as follows:

- the public interest in maintaining organisations' trust and confidence that their systems and processes will not be subject to additional compromise by the actions of the ICO,
- the public interest in allowing organisations time to rectify gaps and mitigate risks following the issuance of a reprimand; and

- The public interest in allowing for the confidentiality of information where harm would likely be caused through inappropriate disclosure via the FOIA.

Having considered all of these factors we have taken the decision that the public interest in withholding the information outweighs the public interest in disclosing it.

This concludes our response to your request. We hope you found this information helpful.

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](#) on our website.

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 sets out [your rights](#). Our [Retention and Disposal Policy](#) details how long we keep information.

Yours sincerely,



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For information about what we do with personal data see our [privacy notice](#)