

8 June 2023

ICO Case Reference IC-232237-V4W5

Request

On 12 May 2023 you requested the following information:

For the period since 7th March 2023, please provide

- *The contents of any communications made between the ICO and CAMBRIDGE STUDENTS' UNION (charity number 1189287), also known as "Cambridge SU".*
- *Any documents or records relating to the data breaches reported by Cambridge Students' Union (including the case number, the contents of any case files, and all emails to/from the organisation)*
- *In particular, I expect this to include a personal data breach re-reported in the last two weeks, relating to an initial inaccurate report made in November 2022.*

We have dealt with your request in accordance with the Freedom of Information Act (2000).

Response

We can confirm that we hold information that falls within scope of your request, but we are withholding this in accordance with Section 31 of the FOIA, as it relates to matters that are under investigation. The exemption at Section 31(1)(g) of the FOIA refers to circumstances where the disclosure of information "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 ..."

Clearly, these purposes apply when we are considering whether or not an organisation has met its obligations in respect of the legislation we regulate.

The exemption at section 31 is not absolute, and we must therefore consider the prejudice or harm which may be caused by disclosure of the information you have sought, as well as applying a public interest test by weighing up the factors in favour of disclosure against those in favour of maintaining the exemption.

Firstly, we take the view that to release the information you have asked for could prejudice the ICO's ability to investigate relevant matters in an appropriate manner. For example, it is probable that any disclosure at this stage would discourage discussions with those involved. This is likely to damage our ability to conduct and conclude our investigations fairly and proportionately.

Disclosure could also jeopardise the ICO's ability to obtain information either relating to the organisation mentioned in your request or others in the future. In our view harm could be caused if relevant parties were reluctant to enter into any further discussions due to information about them and their case being disclosed in response to information requests or even general enquiries. This is likely to result in these parties being reluctant to engage with the ICO, particularly if they believe that information they provide will routinely be considered for disclosure.

In addition, any information released at this stage could be misinterpreted, which in turn could distract from ongoing investigation processes.

With this in mind, we have then considered the public interest test for and against disclosure. In this case the public interest factors in disclosing the information are –

- Increased transparency in the way in which we carry out our investigations; and
- The interest of the public, and any data subjects who may be affected, in issues relating to this particular organisation.

The factors in withholding the information are –

- the public interest in maintaining organisations' trust and confidence that their assistance with the ICO's enquiries will be afforded an appropriate level of confidentiality while investigations are continuing;

- the public interest in organisations being open and honest in their engagement with the ICO, without fear that details provided will be disclosed prematurely, or in some cases, at all;
- the public interest in organisations being able to come forward and report issues to the ICO without fear that information about this will be disclosed prematurely; and
- the public interest in maintaining the ICO's ability to conduct investigations as it thinks fit, in line with the relevant legislation and without risk of prejudice.

Having considered these factors we have taken the decision that the public interest in withholding the information you have requested outweighs the public interest in disclosing it at this time.

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
Planning Service

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