

21 August 2023

Case reference IC-247035-J9K3

Request

You asked us:

"We are aware a data breach incident suffered by City Guilds & Kineo Limited that was reported to the Information Commissioner's Office ("ICO"), by the Ministry of Justice (MOJ) on or around 19th December 2019.

We make a Freedom of Information Request under section 1 of the Freedom of Information Act 2000 ('FOIA') for information regarding the incident reported by, or on behalf of the MOJ, on or around 19th December 2019.

We also make a further Freedom of Information Request under section 1 of the Freedom of Information Act 2000 ('FOIA') for information regarding the current position of the ICO investigation into the incident and if a decision has been made.

If a decision has been made, we would be grateful for a copy of that decision, a summary of the same and the full report regarding the matter."

We received your request on 24 July 2023.

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.

This incident was reported to the ICO on 20 December 2019. A case was set up for the incident, and it was closed on 14 January 2020.

The outcome was 'No further action,' because the criteria required for regulatory action was not met.

Please find the attached personal data breach report and related correspondence.

FOIA section 40(2)

Some information has been redacted because it is the personal data of a third party. It is exempt under section 40(2) of the FOIA.

Disclosure of this data would break the first principle of data protection - that personal data is processed lawfully, fairly and in a transparent manner.

There is no strong legitimate interest that would override the prejudice that disclosure would cause to the rights and freedoms of the individuals concerned. So we are withholding the information under section 40(2) of the FOIA.

FOI section 44 (& DPA s132)

Some information has been redacted because it is being withheld under the provisions of section 44 of the FOIA which places prohibitions on disclosure. This exemption is an absolute exemption, which does not require a consideration of the public interest test of the type required by the qualified exemptions.

Section 44(1)(a) of the FOIA states;

'(1) Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it –

(a) is prohibited by or under any enactment'

The enactment in question is the Data Protection Act 2018 and specifically section 132(1) of part 5 of that Act. This states that:

"A person who is or has been the Commissioner, or a member of the Commissioner's staff or an agent of the Commissioner, must not disclose information which—

(a) has been obtained by, or provided to, the Commissioner in the course of, or for the purposes of, the discharging of the Commissioner's functions,

(b) relates to an identified or identifiable individual or business, and

(c) is not available to the public from other sources at the time of the disclosure and has not previously been available to the public from other sources, unless the disclosure is made with lawful authority."

Section 132(2) lists the circumstances in which a disclosure can be made with lawful authority, however we find that none of them apply here. As a result the information is exempt under the FOIA and withheld from our response.

No other information has been redacted or withheld from disclosure.

This concludes our response to your FOIA request.

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 [here](#).

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 set out your rights. Our retention schedule can be found [here](#).



Yours sincerely



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