

5 September 2023

IC-252056-F5D0

## **Request**

*"I am seeking all incidents that relate to the use of WhatsApp that the ICO has ruled on for the last four years. This could be advice, fine, reprimand or any other comment from the ICO. It would include the organisation, incident, value (if fine) outcome (if other), ICO commentary."*

Your request, received on 31 July 2023, has been handled under the Freedom of Information Act 2000 (the FOIA).

## **Response**

I can confirm we hold information falling within the scope of your request. However, locating the full extent of the information requested would breach the cost limit envisaged by section 12 of the FOIA.

I have provided some more detail about why this is the case in this instance below, along with some advice about how a refreshed request, with a more narrow scope, may elicit information which is of interest to you.

## **FOIA section 12**

Section 12 of the FOIA makes clear that a public authority is not obliged to comply with an FOIA request if the authority estimates that the cost of complying with the request would exceed the 'appropriate limit'.

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 stipulates that the 'appropriate limit' for the ICO is £450. We have determined that £450 would equate to 18 hours work.

Your request is so broad that it could potentially include information held on any case held on our system. This is because Whatsapp could potentially have been mentioned during the course of any complaint, breach report, or investigation about any data controller or public authority.

We are able to run reports to obtain information about cases that we require for our business needs. For example, we can easily search for cases about a particular company that is the subject of a complaint. However, to locate any comments we may have made about the use of Whatsapp would require a manual search of the correspondence on each individual case.

There are more than 100,000 cases held on our system. A manual search of this scale would clearly be well in excess of the cost limit set out in section 12.

### **Advice and assistance**

In order to bring your request within the cost limit you would need to significantly reduce its scope.

A search for 'Whatsapp' on our website returns several results including statements, Decision Notices and enforcement action. You may wish to look through this information first. You can make a new request for anything more specific that you cannot find on our website.

Our ['Behind the Screens'](#) report may be relevant. This details our investigation into private communications channels at the Department of Health and Social Care (DHSC) during the pandemic. We also issued a [reprimand](#) to DHSC in relation to their use of Whatsapp.

This concludes our response to your request. I hope the information I have been able to provide has been helpful.

### **FOI review procedure**

If you are dissatisfied and wish to request a review of our decision or make a complaint about how your request has been handled you should write to the Information Access Team at the address below or e-mail [icoaccessinformation@ico.org.uk](mailto: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 Customer Contact Team at the address given or visit our website if you wish to make a complaint under the FOIA.

### **Your information**

Please note that our [Privacy notice](#) explains what we do with the personal data you provide to us and what your rights are. This includes entries regarding the specific purpose and legal basis for the ICO processing information that people that have provided us with, such as an [information requester](#).

The length of time we keep information is laid out in our retention schedule, which can be found [here](#).

Yours sincerely



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