

29 August 2023

IC-252632-V4H3

Request

You asked us:

*"1. What is the status of your investigation into the cyber attack upon LB Hackney in October 2020;
2. Were you aware that data of this kind (i.e. Children's Social Care records) have been implicated in attack of October 2020;
3. Has LB Hackney notified you that our client's data was compromised in this way?."*

We received your request on 16 August 2023.

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

Our response

I can confirm that this incident was reported to the ICO and our investigations are ongoing.

As our investigations are ongoing, any information relating to this incident are exempt from disclosure. I will explain this in more detail below.

Information Withheld - Section 31 FOIA

This is an exemption relating to information which, if disclosed, would or would be likely to cause prejudice to our ability to regulate the laws we oversee.

Specifically, 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 the Information Commissioner is considering whether or not a data controller has met its obligations in respect of data protection legislation.

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.

Given that our investigation into the actions of London Borough of Hackney is still ongoing, in considering the prejudice or harm that disclosure may cause we have taken into account the factors that would, in our view, impact on the release of the information at this stage.

Firstly, we take the view that to release the information you have asked for could prejudice the ICO's ability to conduct the investigation in an appropriate manner. For example, it is probable that any disclosure at this stage would discourage our ongoing discussions between the ICO and London Borough of Hackney, and may damage our ability to conduct and conclude the investigation fairly and proportionately.

Disclosure could also jeopardise the ICO's ability to obtain information either relating to this case or others in the future.

In our view harm could be caused if London Borough of Hackney were reluctant to enter into any further discussions if information had already been disclosed in response to information requests or even general enquiries. This is likely to result in other parties being reluctant to engage with the ICO in the future. In addition, any information released at this stage could be misinterpreted, which in turn could distract from the investigation process.

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 the ICO conducts its investigations.
- The understandable interest of the public, and particularly the affected data subjects, in being able to see and understand the precise nature and detail of this particular incident.

The factors in withholding the information are –

- the public interest in organisations being open and honest in their correspondence with the ICO about the way they have handled a personal data breach, without fear that their comments and/or details of their internal investigations will be made public prematurely or, as appropriate, at all;
- It is key to our work that we can encourage organisations to proactively engage with us, report incidents of this type, and go on to cooperate with any investigation,
- Allowing us a 'safe space' in which to consider the information provided to us free from external influence, and to ensure the confidentiality of any enquiries undertaken, information provided, and analysis of the incident in question.

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 therefore concludes our response to your information 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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