

8 August 2023

IC-247489-D0X0

Request

We received your request on 27 July. You asked for the following information:

I am writing to make an FOI request. The ICO said that 90 companies have informed it that they have been in contact to say customer data has been compromised by the cyber attack on outsourcing firm Capita.

- 1) How many customers/ members/ clients do those 90 organisations have?*
- 2) How many customers are thought to have been affected by the data breach in total?*

Your request has been handled under the Freedom of Information Act 2000 (the FOIA). As you are probably aware, this legislation provides public access to recorded information held by a public authority unless an appropriate exemption applies.

Our response

We do hold information within the scope of your request.

Please note that, while the information you have requested at point two is included in the standard information that we ask Data Controllers to provide to us when reporting a data breach, the information that you have requested at part one is not, however it's possible that some of these organisations may have provided this information in their correspondence with us.

The information that we hold within the scope of this request is withheld pursuant to s.31 FOIA.

Section 31

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..."

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

The Capita investigation is a purpose which falls within this subsection and disclosure of the information that you have requested would be likely to prejudice this and other future investigations.

Our investigation into the Capita matter is still ongoing. To release the information you have requested could prejudice the ICO's ability to conduct the investigation in an appropriate manner.

Disclosure at this stage would discourage our ongoing discussions between the ICO and the affected Data Controllers and would be likely to damage our ability to conduct and conclude the investigation fairly and proportionately.

Disclosure of information provided to us by affected Data Controllers at this stage could also discourage other Data Controllers who have been affected by the Capita incident from coming forward to report the matter to the ICO.

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

Disclosure is likely to result in other parties being reluctant to engage with the ICO in similar circumstances in the future.

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 affected Data Controllers have responded to the ICO's enquiries; and
- increased transparency in the way in which the ICO conducts its investigations.

The factors in withholding the information are:

- the public interest in maintaining organisations' trust and confidence that their replies to the ICO's enquiries will be afforded an appropriate level of confidentiality;
- the public interest in organisations being open and honest in their correspondence with the ICO without fear that their comments will be made public prematurely or, as appropriate, at all; and
- the public interest in maintaining the ability of the ICO to prevent the most harmful data protection practices through effective enforcement action;
- the public interest in maintaining the ICO's ability to conduct investigations as it thinks fit, without unnecessary interference caused by details being made public at a premature stage.

Having considered these factors, we are satisfied that it is appropriate to withhold the information.

This concludes our response.

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.

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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