

7 July 2023

IC-241998-S8S3

Request

You asked us:

"We are aware a incident suffered by EasyJet, which was announced on May 19th 2020 regarding a leak of personal data, was reported to the Information Commissioner's Office ("ICO").

We make a Freedom of Information Request under section 1 of the Freedom of Information Act 2000 ('FOIA') for information regarding the leak of the personal data announced on or around May 19th 2020 reported by, or on behalf of EasyJet.

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 personal data leak 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 have handled your request under the Freedom of Information Act 2000 (the FOIA).

Our response

We can confirm that an investigation into the incident is ongoing. As the investigation into this incident has not concluded, we do not hold information in scope regarding a final decision.

Further details regarding the investigation have been withheld under section 31 of the FOIA. Please see below for more details on this.

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 ..."

Section 31 is not an absolute exemption, and we must consider the prejudice or harm which may be caused by disclosure. We also have to carry out a public interest test to weigh up the factors in favour of disclosure and those against.

Our investigation into EasyJet 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 EasyJet 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 relating to this case or others in the future, and is likely to result in other parties being reluctant to engage with the ICO 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 EasyJet has 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 ICO's ability to conduct the investigation into complaints as it thinks fit,
- the public interest in this matter is served by our commitment to proactively publish noteworthy investigations in due course as published in our ["Communicating our Regulatory and Enforcement Activity Policy"](#)

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

I appreciate that this will not be the response you have hoped for. However, please note that the ICO publishes information about [enforcement action we have taken](#) on our website.

This 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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