

20 October 2023

Case reference: IC-259444-Q7Z6

We are now in a position to respond to your information request.

Request

"...it was confirmed that 30 unpublished reprimands have been issued since January 2022... I would like to request the following information.

- 1) The names of the organisations that received the reprimands.*
- 2) A copy of each reprimand."*

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

Our response

We understand your request relates to a previous FOIA response on our disclosure log under reference IC-251272-W0M4 available online [here](#).

We can confirm we hold information within scope of your request. Please find in the table below information to which you are entitled, along with the attached six reprimands disclosed as a result of your request . Some information has been withheld and further details are provided later in this response.

Since the figure of 30 unpublished reprimands provided as at 14 August, 3 reprimands have been published on our website [here](#). 1 reprimand has been published since the date of your request (Nottinghamshire City Council). On further inspection of our records, 2 entries on our list have not yet had the final reprimand issued and should not have been included in the figure provided in response to IC-251272-W0M4.

At the time of this request 22 September, the number of reprimands issued since 1 January 2022 that have not been proactively published on our website is 24, with a further 1 reprimand disclosed with the organisation name redacted.

Further information in relation to each of these reprimands is provided in the table below:

	Data controller	Date	Comments
1	Crown Prosecution Service	12/4/22	Available online here
2	Name and reprimand withheld	2022	Withheld in full – s.23
3	Name and reprimand withheld	05/0522	Withheld in full – s.31
4	Probation Board for Northern Ireland	19/5/22	Available online here
5	Southampton City Council	30/6/22	Disclosed with some redactions – s.40(2), s.31
6	Portsmouth City Council	30/6/22	Disclosed with some redactions – s.40(2), s.31
7	HMRC	28/1/22	Reprimand withheld – s.31, s.44
8	Ambassador Theatre Group	5/10/22	Published version here
9	LOQBOX Savings Limited	17/10/22	Disclosed with some redactions – s.40(2)
10	Travel Healthcare Insurance Solutions Inc	17/10/22	Disclosed with some redactions – s.31, s.40(2), s.44
11	Fat Face Limited	Nov 22*	Provisional reprimand withheld – s.31
12	NoHow International	28/4/23	Name previously disclosed here
13	Chief Constable of Nottinghamshire Police	15/5/23	Disclosed with some redactions – s.31
14	Hull University Teaching Hospitals NHS Trust	17/8/23	Disclosed with some redactions, s.31
15	Name and reprimand withheld	2023	Withheld in full – s.31
16	Name and reprimand withheld	2023	Withheld in full – s.31
17	Name and reprimand withheld	2023	Withheld in full – s.31
18	Name and reprimand withheld	2023	Withheld in full – s.31
19	Name and reprimand withheld	2023	Withheld in full – s.31
20	Name and reprimand withheld	2023	Withheld in full – s.31
21	Name and reprimand withheld	2023	Withheld in full – s.31
22	Name and reprimand withheld	2023	Withheld in full – s.31
23	Name and reprimand withheld	2023	Withheld in full – s.31

24	Name and reprimand withheld	2023	Withheld in full – s.31
25	Name and reprimand withheld	2023	Withheld in full – s.31

* While a reprimand was issued to Fat Face in November 2022, this is now being treated as a provisional decision and no final decision has been taken. The matter is currently ongoing (see s.31 explanation below).

Information withheld

Some of the information within scope of your request has been withheld and further details are provided below.

Section 21 FOIA

Some information that you have requested is available online and is therefore technically withheld from disclosure under the FOIA as it is reasonably accessible to you elsewhere.

Section 23(1) FOIA

Section 23(1) of FOIA states that, "Information held by a public authority is exempt information if it was directly or indirectly supplied to the public authority by, or relates to, any of the bodies in subsection (3)."

Some of the information you requested relates to bodies listed in subsection (3) and has therefore been withheld.

Section 31(1)(g) FOIA

FOIA section 31

Some of 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 ..."

We have withheld information using this exemption for several reasons which require separate considerations of the public interest, which are detailed below:

- Reprimands 3, 13, and 14 have been redacted in full (3) or partially (13 and 14) due to the sensitive information referenced in the reprimand.
- Reprimands 5 and 6 contain limited redactions of internal ICO email addresses which we consider prejudicial to disclose.
- Reprimands 7 and 10 contain technical information which, if disclosed, could leave organisations open to the compromise of their IT and security systems.
- Organisations have been notified of the intention to issue reprimands in relation to 11, and 15-25, but matters have not yet concluded.

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.

PIT 1

We have withheld reprimands, either partially or in full due to the sensitive or technical nature of the information they contain.

Disclosure of this information, without being confident that organisations have had the opportunity to mitigate potential risks where technical or security gaps were identified, could leave organisation vulnerable to further compromise. Further, in circumstances where organisations have not yet had the opportunity to advise all affected individuals where sensitive information has been compromised could cause great distress to individuals who may find out via FOI disclosure.

In this case the public interest factor in favour of disclosing the information is:

- Increased transparency in the way in which the ICO conducts its investigations; and
- The understandable public interest in the full details of the circumstances that have led to the ICO issuing a reprimand to an organisation.

The public interest factors in maintaining the exemption are as follows:

- the public interest in maintaining organisations' trust and confidence that their systems and processes will not be subject to additional compromise by the actions of the ICO.
- the public interest in allowing organisations time to rectify gaps and mitigate risks following the issuance of a reprimand; and
- The public interest in allowing for the confidentiality of information where harm would likely be caused through inappropriate disclosure via the FOIA.

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.

PIT 2

We have withheld an internal email address under section 31(1)(g) of the FOIA.

Misuse of internal email addresses that exist to support ICO staff would likely prejudice our ability to perform our regulatory functions. Disclosure would leave us vulnerable to phishing or other cyber-attacks, spam, or an increased volume of irrelevant correspondence which it would take us time to process.

There are other channels that the public can use to contact us, and they are publicly available via [our website](#).

In this case the public interest factor in favour of disclosing the information is:

- Increased transparency in the way in which the ICO conducts its operations.

The public interest factors in maintaining the exemption are as follows:

- Internal email addresses being used inappropriately will reduce the effectiveness and efficiency of our regulatory functions.
- The information of primary relevance to your request is not affected by the redaction of our internal email addresses.
- The public interest in transparency is met by the public provision of other more appropriate means of contacting us.

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.

PIT 3

We have withheld all details of reprimands (with the exception of 11 where we have previously confirmed the organisation's name) where the final decision on the issuance of the reprimand has not yet been taken.

Disclosure of details of reprimands where matters are still ongoing will damage trust in the ICO which will prejudice our regulatory functions, and will likely result in organisations being reluctant to engage with us.

This will risk the ICO being unable to receive information and responses in relation to complaints, incidents, investigations and other matters within our remit. This will result in the ICO being less capable of completing its statutory tasks and using its statutory powers as a data protection and freedom of information regulator.

Public interest test 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 about a personal data incidents and security issues, and transparency about any data practices relevant to the incidents. The information serves as a case reference for other organisations which could encourage commitment or stimulate improvements to data protection; and
- Increased transparency about the type of incidents which justify the issuing of a reprimand, and transparency about how the ICO has used its powers under the UK General Data Protection Regulation. The information provides assurance to people and organisations about how cases have been handled and how future cases may be handled.

The factors in withholding the information are:

- The public interest in maintaining organisations' trust and confidence. This allows better engagement with the ICO and guarantees best practice and compliance
- The public interest in maintaining the ICO's regulatory capability. If we ensure the ICO can receive reports, detailed information and willing engagement from data controllers, it allows us to properly assess cases, take proportionate action and provide guidance based on full, accurate information; and

- It is likely that these reprimands will be made public if/when a final decision is taken by the ICO in issuing them.

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.

Section 40(2) FOIA

Som of the information has been withheld section 40(2) by virtue of section 40(3)(a)(i), which is the exemption under FOIA concerning personal information.

Section 40(2) of the FOIA allows a public authority to withhold information from a response to a request when the information requested is personal data relating to someone other than the requestor, and its disclosure would contravene one of the data protection principles.

Section 44 FOIA

We have withheld some information under Section 44 of the Freedom of Information Act 2000. This is an absolute exemption which means that it can be withheld without further consideration if other legislation prevents its release, if it meets certain conditions, and if none of the circumstances that would give us lawful authority to release it apply.

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'

In this case, the Data Protection Act 2018, Part 5, Section 132 prohibits the disclosure of confidential information that –

- 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.

We do not have lawful authority to disclose this information as it was provided to us in confidence. Section 132(3) imposes a criminal liability on the Commissioner and his staff not to disclose information relating to an identifiable individual or business for the purposes of carrying out our regulatory functions, unless we have the lawful authority to do so or it has been made public from another source.

This concludes our response to your request. We hope you found this information helpful.

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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**For information about what we do with personal data
see our [privacy notice](#)**