

24 October 2023

Case reference: IC-259444-Q7Z6

Corrected table of issued but unpublished reprimands as at 22 September 2023:

	Data controller	Date	Comments
1	Name and reprimand withheld	2022	Withheld in full – s.23
2	Name and reprimand withheld	05/05/22	Withheld in full – s.31
3	Southampton City Council	30/6/22	Disclosed with some redactions – s.40(2), s.31
4	Portsmouth City Council	30/6/22	Disclosed with some redactions – s.40(2), s.31
5	HMRC	28/1/22	Reprimand withheld – s.31, s.44
6	LOQBOX Savings Limited	17/10/22	Disclosed with some redactions – s.40(2)
7	Travel Healthcare Insurance Solutions Inc	17/10/22	Disclosed with some redactions – s.31, s.40(2), s.44
8	Chief Constable of Nottinghamshire Police	15/5/23	Disclosed with some redactions – s.31
9	Hull University Teaching Hospitals NHS Trust	17/8/23	Disclosed with some redactions, s.31

The reprimand issued to Ambassador Theatre Group has been previously published ([here](#)), but we are now confirming who the reprimand was issued to in response to this request.

We are withholding three issued reprimands in full (1,2,5).

Information withheld

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

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 ..."

- Reprimands 8 and 9 have been partially withheld due to the sensitive information referenced in the reprimand.
- Reprimands 3 and 4 contain limited redactions of internal ICO email addresses which we consider prejudicial to disclose.
- Reprimands 2 and 5 contain technical information which, if disclosed, could leave organisations open to the compromise of their IT and security systems.

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.

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](#)**