

16 November 2023

IC-267637-J4R0

Request

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

"1) Provide any correspondence dated 1st September 2020 - 31st December 2020 between the ICO and University of Cambridge and/or Cambridge University Hospitals NHS Foundation Trust staff regarding data breach allegation. To assist in your search, the correspondents from the University of Cambridge may include:

- a. Head of Research Office (Dr Peter Hedges)*
 - b. Head of Research Policy, Integrity and Governance and Research Integrity Officer (Dr Rhys Morgan)*
 - c. Director of Cancer Research UK Cambridge Institute (Prof. Gregory Hannon)*
 - d. Director of Cancer Research UK Cambridge Cancer (Prof. Richard Gilbertson)*
- And from Cambridge University Hospitals NHS Foundation Trust, may include:*
- a. Director of Operations (Research) (Mr Stephen Kelleher)*
 - b. Director of Precision Breast Cancer (Prof. Jean Abraham)*

2) Provide the number of investigations conducted by the ICO into the University of Cambridge and the Cambridge University Hospitals NHS Foundation Trust since 2020, and a breakdown of the outcomes of those investigations (if any were performed)."

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. In relation to the first part of your request, the ICO corresponded with the University of Cambridge in respect of two data breaches reported to us by the University during the period specified. Copies of the relevant correspondence is provided as far as we are able to so. The correspondence received by the ICO from the University of Cambridge about the matters has been withheld, and some information included within the correspondence we have provided is redacted, because it is exempt pursuant to s.44 FOIA.

Additionally, some redactions have been made to the personal data of a third party, this is exempt pursuant to s.40(2) FOIA. Further explanation regarding the exemptions engaged has been provided below.

We did not correspond with Cambridge University Hospitals NHS Foundation Trust about any data breaches during this period.

With regards to the second part of your request, we investigated Cambridge University once during the period specified. The investigation started in July 2020 and concluded in November 2020. This was part of the ICO's investigation into the Blackbaud data breach as Cambridge University were one of the clients that contracted with Blackbaud as a data processor and were affected by the breach.

The investigation found that the University did have adequate contractual measures in place with the Data Processor, and so had taken reasonable measures to meet compliance. The investigation was therefore closed with no further action.

We have not conducted any investigations into Cambridge University Hospitals NHS Foundation Trust during the period specified.

Section 44 of the FOIA –

Section 44 is an absolute exemption which does not require consideration of the public interest test of the type required by a qualified exemption.

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.

The information withheld relates to an identifiable business and was provided to the ICO in the course of our function as a regulator, and we do not have lawful authority to disclose this information to you. 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.

FOIA section 40(2)

You will see that some of the third party personal data has been redacted in our response.

Section 40(2) of the FOIA exempts information if it is personal data belonging to an individual other than the requester and it satisfies one of the conditions listed in the legislation.

We find that the condition at section 40(3A)(a) applies in this instance: that disclosure would breach one of the data protection principles. The principles are outlined in the General Data Protection Regulation (GDPR) with the relevant principle on this occasion being the first principle as provided by Article 5(1): that personal data shall be processed lawfully, fairly and in a transparent manner.

We do not consider that disclosing this information into the public domain is necessary or justified. There is no strong legitimate interest that would override the prejudice to the rights and freedoms of the relevant data subjects. We have therefore taken the decision that disclosing this information would be unlawful, triggering the exemption at section 40(2) of the FOIA.

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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