

23 November 2023

**Case reference: IC-266245-J6D6**

We are now in a position to respond to your information request of 26 October.

**Request**

*"Please provide me with all final reprimands you have issued during Commissioner John Edwards' term that you have not yet published.*

*This should only apply to final reprimands, not preliminary reprimands that you may have sent to controllers/processors so that they can make representations."*

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

**Our response**

We can confirm we hold information within scope of your request. Please find enclosed the information to which you are entitled. This includes 9 final reprimands and the details of these are provided in the table below.

We have recently responded to a similar request for the reprimands issued from 1 January 2022 to 22 September 2023 that were not published on our website. In our corrected response, we provided details of the 6 final reprimands issued and unpublished in this timeframe. You can find the response on our disclosure log [here](#). A copy of the disclosure of these 6 reprimands is attached to this response.

The scope of your request covers the time period 4 January 2022 to 26 October 2023. We have therefore considered the final reprimands issued but not published since the date of the previous disclosure of 22 September up to 26 October 2023.

On 6 December 2022 we announced that we would be publishing reprimands issued from January 2022 onwards, unless there was a specific reason not to. You can read the full article [here](#).

The final reprimands that have been issued and were published between 4 January 2022 and 26 October 2023 are available on our website [here](#).

On the date of your request we published a reprimand for the Police Service of Northern Ireland (PSNI), available [here](#). Since your request, we have published the reprimand for the University Hospital of Derby and Burton NHS Trust (UHDB), available [here](#), and are due to publish reprimands for Chief Constable West Mercia Police and Chief Constable Warwickshire Police.

These 3 reprimands have been provided in this response. However, please note that any subsequent information request for reprimands of this type (recently issued but not yet published) would be likely to be withheld under section 22 of the FOIA as they are intended for future publication.

Please find below details of the final reprimands issued between 4 January 2022 and 26 October 2023 that were not published on our website at the time of your request.

	<b>Data controller</b>	<b>Date</b>	<b>Comments</b>
1	Reprimand withheld in full	2022	Withheld S.23
2	Reprimand withheld in full	5/5/22	Withheld 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	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
10	University Hospital of Derby and Burton NHS Trust	12/9/23	Disclosed. Published 30 October <a href="#">here</a>

11	Chief Constable West Mercia Police	6/10/23	Disclosed with some redactions - S.31, S.44. Due to be published.
12	Chief Constable Warwickshire Police	6/10/23	Disclosed with some redactions - S.31, S.44. Due to be published.

Please be advised that two reprimands were published with the data controller name redacted. These were NoHow International [here](#), and Ambassador Theatre Group [here](#). These names have subsequently been disclosed and those responses can found be on our disclosure log.

We are withholding reprimands at 1, 2, 5 in full. Reprimands 3, 4, 6, 7, 8, 9, 11, 12 have been disclosed with some redactions. Further detail on the relevant exemptions is 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 3 and 4 contain limited redactions of internal ICO email addresses which we consider prejudicial to disclose.
- Reprimand 7, 11 and 12 contains technical information which, if disclosed, could leave organisations open to the compromise of their IT and security systems.
- Reprimands 8 and 9 have been partially withheld due to the sensitive information referenced in the reprimand.

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.

#### Public interest test 1

We have withheld some 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.
- 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.

- 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.

### Public interest test 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 [here](#).

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

Some of the information has been withheld under section 40(2) by virtue of section 40(3)(a)(i), which is the exemption in the 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 FOIA. 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 sets out [your rights](#). Our [Retention and Disposal Policy](#) details how long we keep information.

Yours sincerely



Information Access Team  
Risk and Governance Department, Corporate Strategy and  
Planning Service  
Information Commissioner's Office, Wycliffe House, Water  
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[ico.org.uk](http://ico.org.uk) [twitter.com/iconews](https://twitter.com/iconews)

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