

9 February 2024

**Case reference: IC-285497-Y1C9**

We are now in a position to respond to your information request of 31 January.

**Request**

*"I was advised to contact you through the ICO live chat as I'm trying to find out more information about what data has been stolen in the Akira ransomware attack on Lush reported on January 11th 2024..."*

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

**Our response**

We can confirm we hold a personal data breach report that matches your description. Our enquiries into this incident are ongoing.

We understand your FOIA request to be for the details provided to us about this data security incident involving Lush Cosmetics Limited. Specifically, the types of data that may have been accessed. We are withholding the information within scope of your request pursuant to section 44 of the FOIA and further details on this exemption are provided below.

If we decide to take action against an organisation it will be published on our website [here](#), in line with our [communication policy](#).

We publish quarterly datasets of our completed casework [here](#). Please note, investigations can take a number of months to complete depending on the complexity of the case.

If you have concerns about how an organisation has handled your personal information you can make a complaint to us as regulator on our website [here](#).

Our advice service to the public can be accessed via our helpline or Live Chat service [here](#). You can also find a variety of published guidance on our website.

## Section 44 FOIA

Section 44 of the FOIA is an absolute exemption which means that information 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 to you the information relating to this data security incident as the information was provided to us by Lush Cosmetics Limited 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 understand this response may be disappointing but hope the information provided above is 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



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Risk and Governance Department, Corporate Strategy and  
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[ico.org.uk](http://ico.org.uk) [twitter.com/iconews](https://twitter.com/iconews)

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