

17 July 2024

## **IC-315741-F4Y5**

### **Request**

You asked us:

*"Please provide me with a copy of your exchanges (to and from) WMP, including the 'clarification' request WMP sent you following receipt of the DN [under ref IC-263061-P8L4] and your deliberations that resulted in what appears to be a U-Turn by the ICO; an amendment to the 04/06/2024 DN, a process I did not believe was possible."*

We received your request on 26 June.

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

### **Our response**

We hold some information within the scope of your request. We attach a copy of an email from West Midlands Police to the ICO in which they seek clarification on their options following receipt of our DN. Some information has been redacted which is the personal data of a third party and exempt under s.40(2). Further explanation is provided below.

Aside from this, the only other recorded information that we hold about this request for clarification is our response to West Midlands Police where clarification was provided. This has already been disclosed to you and as such is available to you by other means, and exempt under s21 FOIA.

By way of advice and assistance we would reiterate that we have not amended or withdrawn this decision notice, but simply provided advice and guidance to the PA about how they can proceed in compliance with its directions.

## **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.

This concludes our response.

## **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](#) on our website.

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  
Strategic Planning and Transformation  
Information Commissioner's Office, Wycliffe House, Water  
Lane, Wilmslow, Cheshire SK9 5AF  
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