

01 August 2024

**IC-318370-FOS1**

**Request**

You asked us – in summary:

*"My employer Cavell Healthcare reported a GDPR breach to yourselves I believe on Friday 5th July. However I do not think that Cavell has provided you with all the information and why I am so concerned relating to this breach. Therefore I would like to see the report/information that was submitted by Cavell for you to rate this as 'low risk'."*

We received your request on 09 July 2024.

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

**Our response**

We can confirm that we do hold the information within the scope of your request.

We can further confirm that no formal regulatory action was taken in relation to this data breach, however, we are unable to disclose the requested information to you as the information that the data controller has shared with the ICO is exempt by virtue of section 44 of the FOIA (prohibitions on disclosure).

Further details concerning the above exemption is provided below:

**FOIA section 44 (& DPA s132)**

Section 44(1)(a) 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'*

The enactment in question is the Data Protection Act 2018. Section 132(1) of part 5 of that Act states that:

*"A person who is or has been the Commissioner, or a member of the Commissioner's staff or an agent of the Commissioner, must not disclose information which—*

*(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."*

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.

In this instance, we do not consider that we have the lawful authority to disclose the information which has been provided to us in confidence in our capacity as a regulatory authority.

This concludes our response to your request.

## **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



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