

29 July 2024

## Case Reference **IC-316346-Q1Q3**

### Request

You asked us for copies of any information connected to a personal data breach ("PDB") report from Jasmine Dental Studios ("Jasmine Dental Ltd").

We received your request on 28 June 2024.

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

### Our response

I can confirm we hold information in scope of your request. Please find the attached information which we can disclose to you.

The relevant PDB case is IC-313956-M2P6. It was a non-cyber incident reported to the ICO on 17 June 2024 and it was closed on 20 June 2024 with no further regulatory action required. It was closed using the following case closure categories:

- Informal action taken
- Breach recorded – regulatory action criteria not met
- Advice given

The case file includes the original PDB report from Jasmine Dental Ltd, our acknowledgement to them, and our final decision which was communicated to them.

Please note you are not named or identifiable in the PDB report or any other document on the case, so we cannot treat this as a subject access request for information which you alone would be entitled to. Instead, we have to treat it

under the FOIA which provides a general right of access to information, regardless of the requester's identity.

### **FOIA section 40(2)**

You will see that some third party personal data has been redacted in our response. Specifically, the contact name at Jasmine Dental Ltd which we corresponded with. It is exempt information under section 40(2) of the FOIA.

Disclosure of this data would break the first principle of data protection - that personal data is processed lawfully, fairly and in a transparent manner.

There is no strong legitimate interest that would override the prejudice that disclosure would cause to the rights and freedoms of the individuals concerned. So we are redacting the information under section 40(2) of the FOIA.

### **FOIA Section 44 and DPA section 132**

The PDB report and any references to the details within it have been withheld and redacted under section 44 of the FOIA. 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(2) lists circumstances in which a disclosure can be made with lawful authority, however none of them apply here. As a result, the information is exempt from disclosure.

## **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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