

From: [Stephen Bonner](#)
To: [Alice Christie](#)
Cc: [Izy Jude](#); [REDACTED]; [Debora Biasutti](#); [Katharine Hastie-Oldland](#); [Padideh Dolatshahi](#); [Jonathan Balmforth](#)
Subject: Decision on whether to publicise fine amount in Advanced NOI comms
Date: 10 July 2024 13:06:28

Thank you all for your advice and input. It has been really useful as I consider carefully the situation and the best path forward.

For this case I have decided that we **should** publish the NOI and **should** include the provisional fine amount at this point and we **should** make clear it is provisional.

There are definitely reasonable pro and cons for this and other options but the main items that led to this conclusion are:

1. We have a default posture of transparency, although we do consider (as I have in this case) each circumstance.
2. This is consistent and fair with other similar cases where we have publicised the information at this stage.
3. We are seeing a pattern of central providers having security issues with consequences for patients, publishing this will act as a learning/ deterrent for other processors with large central contracts, including the provisional fine will help clarify the seriousness of these issues.
4. The case has been extremely well reported and is well known, so this reduces the potential additional impact on the organisation and there is limited dispute about the facts of the attack.
5. Publishing the NOI and the provisional fine will help improve information rights practice and compliance among those we regulate.
6. I recognise it is possible that the fine value will change, as it is provisional and subject to reps. I have balanced the possible criticism of the ICO for changing the fine amount as the process concludes vs. the benefit of being transparent about the process. I feel that demonstrating that, if it does change, that is proof that the ICO does consider reps carefully and takes action based upon reps. This can serve to increase confidence in and awareness of our processes. I am comfortable that, subject to including suitable language to make clear it is provisional, that this risk is managed and the benefit is greater.

Each of these situations are different and we have to balance appropriate confidentiality with being an open and transparent regulator. We should ensure this example feeds into the wider refresh of our regulatory processes to reflect on how we codify and document our broader approach, but within this circumstance, we should publish the NOI and should include the provisional fine amount at this point and we should make clear it is provisional.

Thank you,

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Stephen Bonner

Deputy Commissioner, Regulatory Supervision
Information Commissioner's Office, Wycliffe House, Water
Lane, Wilmslow, Cheshire SK9 5AF

T. 03304146580 M. [REDACTED] ico.org.uk twitter.com/iconews

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