

19 December 2024

Case reference: IC-351169-Y1D9

We are now in a position to respond to your information request of 16 December.

Request

"I am writing to ask that (subject to any necessary redactions under the UK General Data Protection Regulation) you release the Monetary Penalty Notice referred to at <https://ico.org.uk/action-weve-taken/enforcement/intelling-ltd/>."

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

Our response

We understand your request to be for the Monetary Penalty Notice (MPN) issued to Intelling Limited in November 2023.

Please find enclosed the information within scope of your request. Some of the information has been redacted and further detail on the relevant exemptions are provided below.

The redacted MPN has been added to the relevant enforcement [webpage](#).

Section 31 FOIA

Some of the information is exempt from disclosure under section 31(1)(g) of the FOIA. This section states:

"Information... is exempt information if its disclosure under this Act would, or would be likely to, prejudice – (g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2)"

The purposes referred to in sections 31(2)(a) and (c) are:

- a. the purpose of ascertaining whether any person has failed to comply with the law
- c. the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise.

The exemption at section 31 is not absolute, and we need to consider the public interest test by weighing up the factors for and against disclosure of the information, as well as any prejudice or harm which may be caused by disclosure.

To release this information would be likely to prejudice the ICO's ability to conduct future investigations fairly and in an appropriate manner. The information gathered by the ICO during the investigation, if disclosed, would likely discourage this organisation and others from fully engaging with us as regulator.

We have taken into account the factors that would, in our view, impact on the release of the information. We have considered the public interest test for and against disclosure.

In this instance, the public interest factors in favour of disclosure are:

- Openness and transparency in the way the ICO conducts its investigations.
- The understandable interest of the public in being able to see the precise nature of the matters raised.

The public interest factors in favour of maintaining the exemption are:

- The need for the ICO to continue to encourage Intelling Limited, and other organisations, to engage with the ICO as regulator.
- To allow the ICO to maintain the trust and confidence of organisations by affording the information an appropriate level of confidentiality.
- The ICO has a demonstrable history of sharing information about our enforcement and regulatory activities, including investigation findings, when it is appropriate to do so and in line with our Communicating our regulatory and enforcement activity [policy](#).

Having considered all of these factors we have taken the decision that the public interest in withholding the information outweighs the public interest in disclosing it, and the information is exempt from disclosure under S31(1)(g) of the FOIA.

Section 44 FOIA

We have withheld some information under section 44 of the FOIA. This is an absolute exemption which means that it 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 this information to you as it was provided to us 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.

Section 40 FOIA

The signature of the member of ICO staff has been redacted under section 40(2) by virtue of section 40(3)(a)(i), which is the exemption under FOIA concerning personal information.

This concludes our response to your request. We hope you found this information 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](#) 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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For information about what we do with personal data see our [privacy notice](#)