

6 February 2025

IC-358799-F4J2

Request

You asked us about "sending patient-identifiable data to the incorrect location (either via email or post). As such, for each of the calendar years 2020, 2021, 2022, 2023 and 2024, could you tell us:

1. The number of investigations you have undertaken regarding this;
2. The total value of fines given to NHS Trusts for sending patient-identifiable data to the wrong recipient;
3. The highest fine for each of those years and which Trusts received those fines.

We would ideally wish for your response to pertain to patient data but if this isn't possible then any form of person-identifiable data (e.g. staff) would suffice."

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

Response

We hold information that falls within scope of your request, but to locate the information required to respond to point 1 would exceed the cost limit outlined by Section 12 of the FOIA, as it would require extensive manual searches to locate every instance that matches this description within our casework management systems.

Section 12(2) states that a public authority is not obliged to confirm or deny the extent to which the requested information is held if the estimated cost of establishing this would exceed the appropriate cost limit. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 stipulates that the 'appropriate limit' for the ICO is £450. We have determined that £450 would equate to 18 hours work.

We do not categorise organisations according to whether or not they are an NHS Trust on our case management systems. We can filter cases either by sector for which the closest match is health (but also includes private and non-NHS organisations), or we can search for data controllers that have the acronym 'NHS' in the title.

Assuming the latter will cover most or all relevant cases, it is worth noting that we hold thousands of data protection complaint and self reported data breach cases attributed to a data controller with 'NHS' in the title, within our casework management systems. The type of incident you have described could have been investigated as part of a data protection complaint, a self reported personal data breach, or as part of a more in depth investigation considered by one of our specialist investigation teams.

We do not have a way to filter these cases according to whether or not they relate to sending patient-identifiable data to an incorrect location (either via email or post), even if we widen this to include all personal data as suggested.

While some of the categories we use to categorise self reported data breach cases, for example, would likely relate to relevant instances, for example 'data emailed to incorrect recipient', or 'data posted or faxed to incorrect recipient', most of the others would require more in depth checking to establish whether or not they specifically related to data sent to an incorrect location by email or post. This is because many of the incident categories we use for personal data breach cases could, but do not necessarily, include this type of incident (for example, 'unauthorised access' could include your example, but also many others that would not be relevant).

Data protection complaint cases are not categorised by incident type, and while we could look at the legislation reason as a starting point (please see [our published data sets](#) for examples of the categories we use when processing data protection complaints), this would not be a reliable way to identify relevant cases, or to narrow them down sufficiently so as to bring the amount of work required under the cost limit. Investigation case files may similarly be complex and would need to be manually searched to check whether or not individual cases are relevant.

Assuming it would only take two minutes to check each case or investigation record (and for complex cases it could take longer, depending on the amount of material we hold) we have estimated that these manual searches (covering thousands of cases) would exceed the 18 hours which would accrue a charge of £450

or less, triggering the provisions of section 12 of the FOIA. On this basis, we are refusing your request.

Advice and assistance

We publish some information about data protection complaint cases, self reported data breach cases and investigations in our data sets via the link below, and these can be filtered by data controller name:

<https://ico.org.uk/about-the-ico/our-information/complaints-and-concerns-data-sets/>

Please note that we do not retain information about all matters we have investigated indefinitely, and for cases that are two years old or more, we are less likely to retain information.

We could consider a request for figures for particular types of case, for example particular incident types for self reported personal data breach cases, specific legislation reasons for data protection complaint cases, or any of the other categories we use in our casework management systems (examples of which can be found within the data sets linked to above).

You could also refine your request by specifying a trust or trusts, or individual cases, although please note that requests for information that identify third parties and/or relate to live investigations, may be subject to exemptions.

Please note that any request requiring us to manually search large numbers of records for specific keywords which do not relate to categories we use in our systems, is likely to exceed the appropriate limit, and we cannot guarantee the

accuracy of the results provided following a manual search. Consideration can also be given as to whether the value to the public of the information derived from such searches is proportionate to the effort to locate it, particularly given the issues regarding accuracy described.

In relation to points 2 and 3 only one such fine has been issued, and the details are already published on our website [here](#).

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



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