

04 October 2024

IC-333378-B3S9

## Request

You asked us for information regarding an investigation into the Home Office that was reported in *The Guardian*. Specifically, you asked:

- 1. When did the investigation by the ICO commence?*
- 2. Why did the ICO commence an investigation ?*
- 3. Who is the complainant ?*
- 4. What is the scope of the investigation?*
- 5. When is the investigation due to conclude ?*
- 6. When is the ICO planning to report its findings?*
- 7. Please provide copies of any internal incident reports or breach notifications that have been sent to the ICO concerning these database errors.*

We received your request on 23 September 2024.

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

## Our response

We hold information in scope of parts 1 and 7 of your request. We do not hold information in scope of parts 2-6.

The Home Office reported a data breach to us involving the immigration database. We began an investigation into the matter on 31 August 2023.

The investigation was concluded on 16 April 2024 with an outcome of 'no further action'.

We do not hold recorded information about why the investigation was commenced, but as advice and assistance the Investigations team have confirmed that the investigation was opened on account of the Commissioner's discretionary powers to examine potential non-compliance with the data protection legislation.

There was no complainant in the case because the matter was self-reported to us by the Home Office.

There is no recorded information setting out the scope of the investigation, but as advice and assistance, the Investigations team have confirmed that the scope included:

- How and when the Home Office identified the issue
- Details regarding the nature and the amount of personal data that had been compromised
- The number of affected data subjects
- The root cause of the issues
- Any detriment that may have been suffered by data subjects as a result of this incident.

There are no plans to report the findings of the investigation. You can request the outcome letter under the FOIA, but exemptions are likely to apply to the information.

In relation to part 7 of your request, we can confirm that we hold the initial breach notification from the Home Office.

However, this information is withheld because we do not have lawful authority to disclose it.

The exemption at Section 44 of the FOIA places prohibitions on disclosure. It is an absolute exemption, which does not require a consideration of the public interest test of the type required by the qualified exemptions.

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'*

The enactment in question is the Data Protection Act 2018 and specifically section 132(1) of part 5 of that Act. This 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 the circumstances in which a disclosure can be made with lawful authority, however we find that none of them apply here. As a result the information is exempt under the FOIA and withheld from our response.

## **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