

17 December 2024

**ICO Case Reference: IC-344817-Q3Q0**

**Request**

You asked us:

*We write to request a copy of the outcome in relation to the data breach incident involving True Solicitors that took place on or around 07/02/2024.*

We received your request on 18 November 2024.

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

**Our response**

We can confirm that we hold information in scope of your request.

However, we are unable to provide you with this information as it is exempt from disclosure. Further information on the exemptions applied is provided below.

**FOIA Section 44 and DPA section 132**

Some information has been withheld 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.

## **FOIA section 31**

Some of the information you have requested is exempt from disclosure under section 31(1)(g) of the FOIA. We can rely on section 31(1)(g) of the FOIA where disclosure:

*"would, or would be likely to, prejudice... the exercise by any public authority of its functions for any of the purposes specified in subsection (2)."*

In this case the relevant purposes contained in subsection 31(2) are 31(2)(a) and 31(2)(c) which state:

*"(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 ..."*

Section 31 is not an absolute exemption, and we must consider the prejudice or harm which may be caused by disclosure. We also have to carry out a public interest test to weigh up the factors in favour of disclosure and those against.

Disclosure could jeopardise the ICO's ability to obtain information relating to this case or others in the future. Furthermore, disclosure is likely to result in other parties being reluctant to engage with the ICO in the future.

With this in mind, we have then considered the public interest test for and against disclosure.

In this case the public interest factors in disclosing the information are:

- increased transparency in the way in which True Solicitors has responded to the ICO's enquiries; and
- increased transparency in the way in which the ICO conducts its investigations.

The factors in withholding the information are:

- the public interest in maintaining organisations' trust and confidence that their replies to the ICO's enquiries will be treated with an appropriate level of confidentiality. It is of significant importance that organisations engage with the ICO in an open and transparent manner, without fear that the information given to us will be placed in the public domain inappropriately.
- the public interest in organisations being open and honest in their correspondence with the ICO during an investigation or enquiry, without fear that their comments will be made public prematurely or, as appropriate, at all. Disclosure of this information could potentially affect our ability to regulate effectively, as it may compromise our ability to carry out future investigations.
- the public interest in maintaining the ICO's ability to conduct investigations into complaints and other matters as it assesses to be appropriate.

Having considered these factors, we are satisfied that the public interest in disclosure does not outweigh maintaining the exemption.

## 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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