

Data Protection Officer

By email only to: [REDACTED]

Cc: [REDACTED]

21 September 2022

Dear [REDACTED] and [REDACTED],

Case Reference Number INV/0707/2021

I write to inform you that the ICO has now completed its investigation into the Secretary of State for the Home Department (the Home Office) Subject Access Request (SAR) compliance.

This case has been considered under the United Kingdom General Data Protection Regulation (the UK GDPR) due to the nature of the processing involved.

For more information about our powers under the data protection legislation please see the attached leaflet.

- ICO Enforcement leaflet - UK GDPR and DPA 2018

Our consideration of this case

I have investigated whether the Home Office has complied with the requirements of the data protection legislation. As you will be aware, the ICO has sought numerous pieces of information from the Home Office to assess the extent to which it has complied with the requirements of Article 15 (Right of Access) of UK GDPR across the period 01 April 2020 to 09 December 2021, including the:

- extent to which responses have been issued to requesters
- timeliness of responses
- policies and procedures in place to process requests
- resourcing and staff training dedicated to the handling of requests
- the Subject Access Request Unit (SARU) Improvement plan implemented by the Home Office

As you will be aware, organisations must comply with a SAR without undue delay, and at the latest within one month of receipt of the request or within one month of receipt of:

- any information requested to confirm the requester's identity
- a fee (only in certain circumstances)

After careful consideration and based on the information provided, we have decided to issue the Home Office with a reprimand in accordance with Article 58 of the UK GDPR. This is because we are not satisfied that the Home Office has processed requests across the period 01 April 2020 to 09 December 2021 in such a way as to avoid undue delay, or in any event to deal with requests within one month of receipt (or within two months for more complex requests).

Details of reprimand

The reprimand has been issued in respect of the following processing operations that have infringed the UK GDPR:

- **Article 12(3)**

This states that 'The controller shall provide information on action taken on a request under Articles 15 to 22 to the data subject without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. The controller shall inform the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay. Where the data subject makes the request by electronic form means, the information shall be provided by electronic means where possible, unless otherwise requested by the data subject'.

- **Article 15(1)**

This states that 'the data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data'.

- **Article 15(3)**

This states that 'The controller shall provide a copy of the personal data undergoing processing.'

Based on the findings of this investigation, the Home Office has only responded to 45.73% of the SARs it has received within the statutory timescales during the period from 01 April 2020 to 09 December 2021. This meant that 20,862 of the requests made to the Home Office did not receive a response in accordance with the requirements of the UK GDPR. This could have significant impacts on the data subjects affected and we expect the Home Office to take steps to improve its compliance in this area. The Home Office has also failed to improve its SAR compliance during the period of our investigation and the SARU continues to have a backlog of SAR cases.

The ICO appreciates that the Home Office has faced some difficulties during the period reviewed and during the investigation including the COVID-19 pandemic, the Small Boats project and the crisis in Ukraine that has impacted the Home Office's SAR compliance.

Further Action Recommended

The Commissioner recommends that the Home Office could take certain steps to improve its compliance with UK GDPR. In particular:

1. The Home Office should take steps to ensure that Subject Access Requests are responded to within statutory deadlines in line with Articles 12(3) and 15(1) and 15(3) of the UK GDPR;
2. The Home Office should ensure that it has adequate staff resource in place to process and respond to SARs.

The Home Office should provide the ICO with an update on its SAR compliance and the progress/results of its SAR improvement plan after three months from the date of this letter which is 21 December 2022. A further update should also be provided to the ICO also after six months from the date of this letter which is 21 March 2023.

I would like to point out that if further information relating to this subject comes to light, or if any further incidents or complaints are reported to us, we will revisit this matter and further formal regulatory action may be considered as a result.

Further information about compliance with the data protection legislation which is relevant to this case can be found at the following link:

<https://ico.org.uk/for-organisations/guide-to-data-protection/>

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Therefore, we may publish the outcome of this investigation to publicise our regulatory authority and new powers under the UK GDPR. We will publish information in accordance with our Communicating Regulatory and Enforcement Activity Policy, which is available online at the following link:

https://ico.org.uk/media/about-the-ico/policiesandprocedures/1890/ico_enforcement_communications_policy.pdf

Please let us know if you have any concerns about this.

Thank you for your co-operation and assistance during the course of our investigation.

We now consider the matter closed.

Yours sincerely

██████████
Lead Case Officer
Civil Investigations
Regulatory Supervision Service
The Information Commissioner's Office
██████████

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Information Commissioner's Office

(<https://ico.org.uk/about-the-ico/our-information/complaints-and-concerns-datasets/>).

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