

DATA PROTECTION ACT 2018 AND UK GENERAL DATA PROTECTION REGULATION

REPRIMAND

TO: The Chief Constable of Devon and Cornwall Police

OF: Devon & Cornwall Police

Middlemoor

Exeter

EX2 7HQ

1.1 The Information Commissioner (the Commissioner) issues a reprimand to The Chief Constable of Devon and Cornwall Police (Devon and Cornwall Police) in accordance with Article 58(2)(b) of the UK General Data Protection Regulation (UK GDPR) and Schedule 13(2)(c) of the Data Protection Act 2018 (DPA 2018) in respect of certain infringements of the UK GDPR and DPA 2018.

The reprimand

1.2 The Commissioner has decided to issue a reprimand to Devon and Cornwall Police in respect of the following infringements of the UK GDPR and the DPA 2018:

- **Article 12(3) of the UK GDPR**

This states:

'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.'

- **Part 3, Chapter 3, Section 54 of the DPA 2018**

This states:

‘(1) This section defines “the applicable time period” for the purposes of sections 45(3)(b) and 48(2)(b).

(2) “The applicable time period” means the period of 1 month, or such longer period as may be specified in regulations, beginning with the relevant time.

(5) Regulations under subsection (2) may not specify a period which is longer than 3 months.’

1.3 The reasons for the Commissioner’s findings are set out below.

Devon & Cornwall Police are the police force responsible for policing the counties of Devon and Cornwall in South West England. Devon and Cornwall Police formed an alliance with Dorset Police in April 2017 known as the Devon and Cornwall Police & Dorset Police Alliance (the Alliance). The two police forces formed the Alliance to enable them to work together to improve delivery, resilience and flexibility, as well as save money and increase efficiency in over 30 administrative and operational business areas, including data protection.

Article 12(3) of the UK GDPR and Part 3, Chapter 3, Section 54 of the DPA 2018

From the information provided by the Alliance during the course of the investigation, it was found that Devon and Cornwall Police have continuously infringed Article 12(3) of the UK GDPR and Part 3, Chapter 3, Section 54 of the DPA 2018 for over four years. In this case, Devon and Cornwall Police have had a subject access request backlog since 2018.

The subject access request statistics provided by the Alliance show that in August 2022, Devon and Cornwall Police had 373 overdue subject access requests. Of these 373 overdue subject access requests, 33% (128) of the subject access requests were older than seven months, and 19% (71) were older than a year. More recent statistics show that as of November 2023, Devon and Cornwall Police had 347 subject access requests

awaiting a response. Of these 347 subject access requests, 83% (287) of the subject access requests were older than one month, and 22% (78) were older than four months. This evidences Devon and Cornwall Police's failure to respond to subject access requests in accordance with Article 12(3) of the UK GDPR and Part 3, Chapter 3, Section 54 of the DPA 2018.

Mitigating factors

1.4 It has been noted that during the course of 2023 Devon and Cornwall Police have been increasing their staffing levels. It is acknowledged that it does take time and resources to fully train up new data protection staff before significant impacts can be made on Devon and Cornwall Police's subject access request backlog. Whilst outstanding overdue requests remained, it can however be seen that the increased staffing levels introduced in April 2023, is assisting Devon and Cornwall Police's subject access request compliance. This is evidenced by the November 2023 subject access request statistics showing a reduction in the age of subject access requests awaiting completion.

On 24 February 2023 The Alliance to which Devon and Cornwall Police belong to provided a comprehensive action plan detailing how they plan to bring Devon and Cornwall Police's subject access request compliance back in line with Article 12(3) of the UK GDPR and Part 3, Chapter 3, Section 54 of the DPA 2018. This action plan included details regarding recruiting and time scales. Further updated action plans were provided during the course of the investigation.

Remedial steps taken by Devon and Cornwall Police

1.5 The Commissioner has also considered and welcomes the remedial steps taken by Devon and Cornwall Police in light of this matter. In particular:

- **Increased staffing levels** – As of 3 July 2023 the Alliance to which Devon and Cornwall Police belong to have increased the pool of staff available to both forces by eight full time data protection advisors working 37 hours per week and two Advisors working 30 hours per week.
- **Implemented overtime** - Along with increasing staffing levels the Alliance to which Devon and Cornwall Police belong to have also

been able to secure funding on a month by month basis to implement overtime for data protection staff.

Decision to issue a reprimand

1.6 Taking into account all the circumstances of this case, including the mitigating factors and remedial steps, the Commissioner has decided to issue a reprimand to Devon and Cornwall Police in relation to the infringements of Article 12(3) of the UK GDPR and Part 3, Chapter 3, Section 54 of the DPA 2018 set out above.

1.7 Devon and Cornwall Police were invited to provide representations. Devon and Cornwall Police did not wish to make any representations.

Further Action Recommended

1.8 The Commissioner recommends that Devon and Cornwall Police should take certain steps to ensure its compliance with the UK GDPR and the DPA 2018:

1. In order to ensure compliance with Article 12(3) of the UK GDPR and Part 3, Chapter 3, Section 54 of the DPA 2018 Devon and Cornwall Police should continue to ensure that it has adequate staff resources in place to process and respond to subject access requests;
2. Devon and Cornwall Police should ensure they continue to take the steps outlined in their action plan to ensure that subject access requests are responded to within statutory deadlines in line with Article 12(3) of the UK GDPR and Part 3, Chapter 3, Section 54 of the DPA 2018.