

Ms E Morrison  
Cafcass National Office  
3rd Floor  
21 Bloomsbury Street  
London  
WC1B3HF

Send by email only to: [governance@cafcass.gov.uk](mailto:governance@cafcass.gov.uk)

**RE: COM0755749**

28 August 2018

Dear Ms Morrison

I write to inform you that I have now completed my investigation into incidents where correspondence containing highly sensitive personal data was sent to the incorrect address /email.

In summary, it is my understanding that The Children and Family Court Advisory and Support Service (Cafcass) has reported 21 incidents since 17 May 2018. Two incidents fall under Data Protection Act 1998 (DPA 98). The remaining 19 fall under the General Data Protection Regulation (GDPR). The following incidents have been included as part of my investigation:

	<b>ICO Ref</b>	<b>Cafcass Ref</b>	<b>Date of Incident</b>
<b>1.</b>	COM0755749	853206	11/6/18
<b>2.</b>	COM0766099	842553	12/7/18
<b>3.</b>	COM0763350	854754	2/7/18
<b>4.</b>	COM0763339	857821	4/7/18
<b>5.</b>	COM0762391	855787	2/7/18
<b>6.</b>	COM0760563	685700	25/6/18
<b>7.</b>	COM0757530	854745	16/6/18
<b>8.</b>	COM0757303	815680	13/6/18
<b>9.</b>	COM0752105	788704	17/5/18
<b>10.</b>	COM0750722	834953	23/5/18
<b>11.</b>	COM0749744	846839	25/5/18
<b>12.</b>	COM0767128	750861	6/7/18
<b>13.</b>	COM0770602	860374	25/7/18
<b>14.</b>	COM0753666	852771	7/7/18
<b>15.</b>	COM0773410	860352	31/7/18
<b>16.</b>	COM0758317	729742	15/6/18
<b>17.</b>	COM0773314	862756	31/7/18
<b>18.</b>	COM0773414	828666	27/7/18
<b>19.</b>	COM0773906	864083	3/8/18

<b>20.</b>	COM0775162	853766	1/6/18
<b>21.</b>	COM0775033	849399	27/7/18

All of the incidents involve personal data and special category data, which is of a highly sensitive nature, being sent to the incorrect postal address / email address. All of the information relates to the safeguarding of children and any court proceedings. The information disclosed includes:

- Name, date of birth and contact details of the data subjects
- Information from the local authority on their prior involvement with the data subjects and their family (safeguarding information)
- Information on the family's domestic situation, private life and history
- Medical data
- Data depicting drug use
- Information from the Police National Computer on convictions and cautions
- Data revealing racial or ethnic origin

The incidents have affected 74 data subjects and Cafcass have suggested that the switch to a new computer system may have been a factor in the number of incidents increasing.

When I wrote to you on 26 June 2018 and 2 August 2018, I set out details of the Information Commissioner's powers. Based on the information you have provided, we have decided to issue Cafcass with a reprimand in accordance with article 58(2)(b) of the GDPR. The specific terms of the reprimand can be found towards the end of this letter.

### **Our consideration of the cases**

I have investigated whether Cafcass has complied with the requirements of article 5(1)(f) GDPR, which states that personal data should be:

*"processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures."*

The data in this case is considered to constitute special category data as defined by article 9 of the GDPR.

We consider that article 5(1)(f) has been infringed for the following reason(s):

- The inappropriate disclosure of highly sensitive personal data and special category data of 74 data subjects.
- 21 separate incidents between 17 May 2018 and 3 August 2018.
- The nature of the incidents having a similar root cause.

The disclosure of the information detailed above is likely to cause substantial detriment. The data is highly sensitive, and the data subjects are likely to feel distressed that their information has been inappropriately disclosed. The information contained within the reports/letters could potentially put vulnerable data subjects (children, vulnerable adults etc) at risk, thus increasing the potential detriment on the individuals.

In addition, the further dissemination or inappropriate processing of this data has the potential to cause the affected data subjects significant distress and detriment. However, you have explained that there is no evidence of this.

### **The nature of the breaches**

With this in mind, it is useful to consider the nature of each breach. Based on an analysis of the incidents, we can see that two were directly implicated in the move to the new IT system: COM0760563, COM0775033.

The other cases appear to be as a result of administrative errors (incorrect envelopes or failure to complete checks) and autocomplete or other email errors.

There are two cases which occurred under DPA 98 (COM0752105, COM0750722) and I would like to clarify that a reprimand cannot be issued in relation to these incidents. However, these cases were investigated simultaneously and were a factor in our overall consideration of Cafcass' compliance with data protection legislation.

There were also two breaches which were reported by Cafcass, but caused by another Data Controller (COM0773414, COM0752105).

### **Imposition of Reprimand**

Two of the reported incidents are linked to the introduction of a new computer system. Whilst the detriment caused to individuals may have been significant, there is insufficient evidence to show that the introduction of the new computer system has been handled recklessly, or that it has greatly increased the likelihood of a data breach occurring.

The majority of the incidents were caused by administrative errors. It is noted that Cafcass has clear policies and guidance in place explaining the process which

should be followed prior to sending correspondence. This includes checking contact details and attachments at different stages. In addition, Cafcass have recently added an additional prompt in postal areas to remind staff to check any correspondence before sending.

The incidents included as part of this investigation can be primarily attributed to human error and a breach in policy, as opposed to any systematic failings at Cafcass. However, the repeated nature of the inappropriate disclosures, their similar root cause, and Cafcass's failure to ensure that its own policies and procedures were adhered to mean that a reprimand is necessary.

### **Details of reprimand**

The reprimand has been issued in respect of the following processing operation(s) that has infringed the GDPR:

- Processing of personal data in breach of the principles and guarantees set out in article 5

### **Further action required**

The Commissioner considers that Cafcass needs to take certain steps to improve compliance with the GDPR. We therefore strongly recommend that Cafcass implements the following measures:

1. All staff attend mandatory training which is routinely tested and refreshed.
2. All policies and procedures which are already in place need to be enforced and reiterated to staff on a regular basis. For example annually or as soon as there are changes. All staff should also sign a disclosure to confirm that they have read and understood the policies/procedures.
3. Further increase staff awareness of inappropriate disclosures. For example with workshops, newsletters, training or emails.
4. Implement stricter safeguards to ensure correspondence is sent to the correct recipient. For example implementing a 'fresh eyes' approach and removing autocomplete from email systems.
5. Contact details should be checked for all correspondence, including administrative correspondence.

Whilst the above measures are suggestions, I would point out that if further information or incidents relating to this investigation comes to light, or if any further incidents or complaints of this nature are reported to us, we will revisit this matter. As such, further enforcement action may be considered as a result.

We actively publicise our regulatory activity and outcomes, as this helps us to achieve our strategic aims in upholding information rights in the public interest. We may publish information about cases reported to us, for example where we think there is an opportunity for other organisations to learn or where the case highlights a risk or novel issue.

Therefore, we may publish the outcome of this investigation to publicise our regulatory authority and new powers under the GDPR. We will publish information in accordance with our communicating regulatory activity policy, which is available online at the following link:

[https://ico.org.uk/media/about-the-ico/policies-and-procedures/1890/ico\\_enforcement\\_communications\\_policy.pdf](https://ico.org.uk/media/about-the-ico/policies-and-procedures/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

Emily Knight  
Lead Case Officer  
Enforcement  
Information Commissioner's Office  
0330 414 6325

Please note that we are often asked for copies of the correspondence we exchange with third parties. We are subject to all of the laws we deal with, including the General Data Protection Regulation, the Data Protection Act 2018 and the Freedom of Information Act 2000. You can read about these on our website ([www.ico.org.uk](http://www.ico.org.uk)).

The ICO publishes the outcomes of its investigations. Examples of published data sets can be found at this link (<https://ico.org.uk/about-the-ico/our-information/complaints-and-concerns-data-sets/>).

Please say whether you consider any of the information you send us is confidential. You should also say why so that we can take that into consideration. However, please note that we will only withhold information where there is good reason to do so.

For information about what we do with personal data see our privacy notice at [www.ico.org.uk/privacy-notice](http://www.ico.org.uk/privacy-notice)