

Determination and Sanction

Investigation into The Watches of Switzerland Company Limited's ("WoS" or "the Controller") compliance with The Data Protection (Bailiwick of Guernsey) Law, 2017 ("the Law")

Background to the determination

The circumstances giving rise to the proposed determination are as follows:

1. On 21 September 2024, the Complainant received a call from Mappin & Webb's ("M&W") Guernsey branch, one of the legal entities that forms the Watches of Switzerland Group. The call related to the removal of after-sale services from the Complainant. During the call, M&W referenced the Complainant's business and stated the decision had been made in consultation with Head Office. Following this call, the Complainant submitted a formal complaint to WoS.
2. On 16 October 2024, the Complainant submitted a Data Subject Access Request ("DSAR") to WoS. Within the DSAR the Complainant clarified that their request should include:

"All personal data held about me: This includes any and all information you have collected, stored, or processed about me, in any format, including but not limited to emails, documents, decision logs, and any other communications."

And

"Decision-making process: I would like full transparency on any automated or manual decisions your company has made about me, including the processes that led to decisions to prevent me from purchasing or [receiving after-sale services] through your services."

3. On 6 November 2024, WoS responded to the DSAR, providing a pack of material. The pack did not contain any material regarding the decisions to refuse the Complainant purchasing or after-sale services.
4. Additionally, no material was provided regarding the processing of the Complainant's personal data in the context of the investigation into their complaint.
5. WoS did not inform the Complainant that any personal data had been withheld or exemptions applied. Notably, in the pack itself, WoS stated:

"Our IT department carried out a report of our email system across the estate searching the email address provided of [Complainant's email address]. This report

has only found the exchange of emails between yourself and our Client Experience Department in relation to your Subject Access Request and subsequent emails between departments within the Watches of Switzerland Group to identify what details, if any, were held in relation to your name and email address.”

6. The Complainant responded on 8 November 2024, raising concerns that material they were entitled to was being inappropriately withheld. WoS responded the same day stating:

“We have provided you with all the information we hold...”

7. As a result of the above, the Complainant submitted a complaint to the Authority on 9 November 2024.
8. On 28 November 2024, an Authority Investigator spoke with the WoS Data Protection Officer (“the DPO”) over the phone. During the conversation, the DPO reiterated that all personal data held by WoS had been disclosed to the Complainant, however, clarified that any correspondence regarding the ongoing complaint was legally privileged. The DPO advised that WoS had never dealt with the Complainant’s business.
9. On 7 January 2025, the Authority issued WoS a Notice of Investigation, including a series of questions requiring responses from WoS in order to support the investigation.
10. On 4 February 2025, WoS provided their formal response to the Authority’s letter (“WoS’s formal response”). Included alongside the response was an email chain, dated 14 September 2024, between M&W and managers at Head Office (“the 2024 correspondence”).
11. WoS stipulated that M&W was made aware of the Complainant’s business, and its connection to the Complainant, likely through previous open conversations with the Complainant at the showroom. This was subsequently confirmed by M&W via open-sourced research online, which led to the 2024 correspondence referenced above.
12. Regarding the 2024 correspondence, the Authority notes the following statements within WoS’s formal response:
 - *“This email conversation between [M&W] and the relevant managers in our head office did not refer to [the Complainant] by name, but to ‘a client’ and [redacted], and for that reason it did not appear in the search carried out for [the Complainant’s] DSAR.”*
 - *“As the email conversation was a straightforward discussion about the application of Group policy to a particular activity, there was no personal element to either the discussion or the decision...”*

- *“We are inclined to take the view that this email exchange did not involve the processing of [the Complainant’s] personal data as [the Complainant] was not identified by name...”*

13. The Authority acknowledges that, within WoS’s formal response, it is indicated that WoS are willing to receive guidance from the Authority on whether the content of the 2024 correspondence would constitute personal data and therefore require disclosure.
14. WoS has confirmed that they have never engaged with the Complainant’s business and only processed personal data in the context of the Complainant as an individual. It is also of note that the Complainant’s business is not a limited entity and that they conduct their business as a sole trader.
15. When considering the contents of the initial email of the 2024 correspondence, whilst the Complainant’s full name is not detailed, there are multiple factors that attribute the information in question to a single individual, rendering it the personal information of the Complainant. For example, the hyperlink includes the Complainant’s surname and allows for identification through the business’ web page, which clearly identifies the Complainant in a subsequent page. This is combined with a unique Customer ID number (Captivate), specific to the Complainant as an individual, as confirmed by WoS. The content of the email also relates to actions taken by the Complainant, referring to them in the singular, and even states *“[redacted] are aware of [the Complainant]”*. All of this information collectively identifies an individual, acting as a sole trader and their specific actions with respect to their relationship as a client with WoS.
16. Our approach to considering individuals’ identifiable personal information, in the context of a sole trader scenario, is consistent with that of other data protection authorities including the UK Information Commissioner’s Office (“ICO”). On this point, in their guidance describing “what is personal data”, the ICO states that: *“...the UK GDPR does apply to personal data relating to individuals acting as **sole traders**, employees, partners, and company directors wherever they are individually identifiable and the information relates to them as an individual rather than as the representative of a legal person”* (see [What is personal data? | ICO](#)).
17. As WoS have correctly pointed out, information such as the Customer ID number, can be combined with other datasets to identify an individual, thereby making it pseudonymous rather than anonymous. In accordance with Paragraph 1(c) of Schedule 9 of the Law:

“An individual is considered identifiable where the individual can be directly or indirectly identified from the information, including – where, despite pseudonymisation, that information is capable of being attributed to that individual by the use of additional information.”
18. As the individual is considered identifiable from the initial email, this brings the content of the subsequent emails, such as references to the “client” etc, into review.

19. As a result of the above, the Authority has therefore determined that the 2024 correspondence, provided to the Authority alongside WoS's formal response, should have originally been identified by WoS during the collation process of the Complainant's DSAR and subsequently disclosed to the Complainant, albeit in an appropriately redacted format.
20. Additionally, the Authority is aware of email correspondence between the Complainant and the Client Experience team, which pre-dates WoS receiving the DSAR (21/09/2024 to 15/10/2024) and therefore would be captured in its scope. The Authority acknowledges this information will already be in the possession of the Complainant, however, this does not exempt the material from disclosure and it should have been provided.
21. With regards to any processing by WoS, occurring as a result of the Complainant's complaint, WoS advised that:

"The Client Experience team passed [the Complainant's] email to our Commercial Solicitor on 24th September and awaited her response. From that point until 16th October (receipt of the SAR) there was no internal correspondence about the complaint apart from a brief exchange between 30th September to 2nd October in which Client Experience ask whether our solicitor can give them a response yet, and she replies that she intends to seek external legal advice and asks them to send a 'holding' response in the meanwhile.

This exchange did not name [the Complainant] and for that reason was not included in [the Complainant's] SAR."

22. The "holding response", whilst sent directly to the Complainant, would also be considered in scope of the Complainant's DSAR and so therefore should have been disclosed.
23. When considering any potentially withheld or unidentified correspondence that would be in scope of the original DSAR, the Authority noted that, in WoS's formal response, they stated:

"In 2016, we became aware that [the Complainant] had [redacted] and, in line with the above, we informed [the Complainant] that we would not provide any further high demand pieces."

24. As per point (2) above, the Complainant's DSAR makes specific reference to ...

*"...decisions to prevent me from **purchasing** or [receiving after-sale services] through your services."*

Therefore, on 13 March 2025, the Authority emailed WoS to confirm whether WoS holds any personal data relating to the Complainant and regarding the 2016 decision to no longer sell the Complainant high demand pieces.

25. On 24 March 2025, WoS responded, confirming they had since located an email chain, dated 7 May 2016, hereafter referred to as “the 2016 correspondence”. The Authority noted the presence of the Complainant’s personal data within the 2016 correspondence.
26. As a result of the above, the Authority has therefore determined that the 2016 correspondence, should have originally been identified by WoS during the collation process of the Complainant’s DSAR and subsequently disclosed to the Complainant, albeit in an appropriately redacted format.

Reasons for the determination

27. Based on the evidence submitted, the circumstances summarised above, and the various representations made by and communications with both the Complainant and the Controller, the Authority is of the view that the Controller **has breached** an operative provision of the Law, as detailed below.

28. Section 15 of the Law

Section 15 relates to “Right of access”.

In particular, sub-section 15(1) provides that:

“An individual has a right to be given the following information in accordance with subsections (2) to (4) – ”

Sub-section 15(1)(b)(ii) provides that:

“If personal data relating to the individual is being processed in the context of a controller – one copy of the personal data,”

Furthermore, sub-section 15(2) provides that:

“On request by an individual, the controller must give the individual that information.”

29. The Authority is of the view that WoS has failed to comply with the requirements of this provision, as stated above, by virtue of the below:

WoS has failed to comply with the Complainant’s Data Subject Access Request in that they did not provide personal data, processed by WoS, to which the Complainant was

entitled through their right of access. In this case, some of the material withheld had been directly sought by the Complainant in their original request.

Identified DSAR system shortcomings

30. Both the Complainant's DSAR pack and WoS's formal response to the Authority provide detail on the systems and areas scrutinised by WoS in order to facilitate the Complainant's DSAR e.g. Outlook. Despite this, the Authority has identified several items that were not captured in the original collation process (see above).
31. The Authority notes that, in WoS's formal response, they state the 2024 correspondence did not refer to the Complainant by name and therefore did not appear in the search carried out for the Complainant's DSAR. The correspondence was subsequently identified by WoS after discussing the matter with M&W for the purposes of this investigation.
32. The 2024 correspondence did, however, include a hyperlink containing the Complainant's surname as well as the Client Captivate number and therefore should have been captured during the DSAR process.
33. It is also not clear what search terms were utilised by WoS for their respective systems. References are made within the DSAR pack to data relating to the Complainant's name, email address and postal address. However, when detailing the search terms, utilised by WoS's IT department, for reviewing WoS's email system, the Authority only notes the Complainant's email address as a used term.
34. The Authority appreciates that, in the case of the 2016 correspondence, identification of the email chain may have been impacted by a move to the new Captivate system in 2018/19, as stated in the DPO's email to the Authority on 24 March 2025. However, an organisation should have the relevant measures in place to capture this data when necessary, if still held.
35. Considering the above, the Authority is concerned that WoS's searching and collation process when handling DSAR's is not sufficiently extensive and does not consider appropriate sources, such as local branch staff or historic/archived material, when attempting to identify material containing the requestor's personal data.
36. To mitigate a recurrence of non-compliant DSARs, the Authority therefore sees the need for WoS to review their systems with consideration to their internal search/collation process and update where necessary in order to ensure all in-scope personal data is captured in future DSARs.

Representations from WoS

37. No representations have been received from WoS.

Sanction

38. When the Authority determines that a controller has breached an operative provision of the Law, it may impose a sanction against that controller as outlined within section 73 of the Law.

39. The Authority hereby issues an enforcement order under section 73(1)(c) of the Law, in respect of WoS's breach of section 15 of the Law. For the purposes of 73(1)(c), subsection (2)(a) and (c) will apply, the terms of which are as follows:

- 1. WoS must perform a further search for relevant material and provide the Complainant with all information to which the Complainant was entitled in response to the DSAR made under section 15 of the Law on 16 October 2024.***

The Authority requires that, during the search and collation steps of the disclosure, WoS document in writing: the search parameters, search terms, department, systems and members of staff (if applicable) utilised for the purpose of complying with term 1 of this Order.

In accordance with section 10 of the Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018, an unredacted copy of this information must be retained for a minimum of six years following disclosure of the revised DSAR material and must be provided to the Authority upon request.

- 2. When complying with term 1 of this Order, WoS may apply any exemptions or exceptions that would have been applicable when complying with the DSAR of 16 October 2024.***

The Authority requires that, during the compiling of the disclosure, WoS document in writing the rationale for any exemptions/exceptions applied. Any rationale must be retained for a minimum of six years following the disclosure of the revised DSAR material and must be provided to the Authority upon request.

We have included links to guidance notes advising WoS on the lawful application of these exemptions/exceptions – [Exemptions · ODPA](#).

- 3. WoS must review their systems with consideration to their internal search/collation process and update where necessary in order to ensure all in-scope personal data is captured in future DSARs. Where necessary, this may also require updates to guidance regarding what may constitute client personal data.***

Details of any updates made as a result of this Order must be retained for a minimum of six years following implementation and must be provided to the Authority upon request.

- 4. Terms 1 and 2 must be complied with within 28 days of the issuance of a notice under section 73 of the Law. WoS must provide written confirmation to the Authority within this 28-day period that it has complied with terms 1 and 2 of this Order. Term 3 must be completed within four months of the issuance of a notice under section 73 of the Law.***

40. To inform and assist on the above disclosure, we have identified certain items we believe constitute the Complainant's personal data and should therefore be included within the disclosure under term 1 of this Order, alongside any other information subsequently identified by WoS:

- "The 2024 correspondence", referenced in point (10).
- Correspondence between WoS and the Complainant following the submission of the Complainant's complaint to WoS and preceding receipt of the DSAR on 16 October 2024. See point (20).
- The "holding response", referenced in point (22), and any other similar communications in scope of the Complainant's DSAR.
- "The 2016 correspondence", referenced in point (25).

41. Where WoS is required to produce any written documentation in compliance with the terms of this Order, it must produce such documentation in a manner that is disclosable to the Authority. In the event that legal advice is sought by WoS, for the purpose of complying with this Order, documentation evidencing compliance with the terms of the Order must be produced in a manner free from legal privilege.