

National Crime Agency  
PO Box 8000  
London  
SE11 5EN

By email only to: [REDACTED]

6 September 2022

Dear [REDACTED]

**Case Reference Number INV/0821/2021**

I write to inform you that the ICO has now completed its investigation into the incident regarding the NCA's failure to process exception reports, created by the use of Robotic Processing Automation (RPA).

In summary, it is my understanding that this incident occurred when the NCA overlooked the importance of exception reports generated by the RPA between December 2020 and April 2021. The exception reports were to highlight where the work of the RPA could not be completed and manual officer intervention was required in order to complete the necessary work on Interpol circulations. Due to this oversight the exception reports were not actioned and as a result the cancellation of the data subject's extradition order was not actioned which led to the incorrect arrest of the data subject.

This case has been considered under the Data Protection Act 2018 (the DPA 2018) due to the nature of the processing involved.

**Our consideration of this case**

I have investigated whether the NCA has complied with the requirements of data protection legislation.

In the course of my investigation I have noted that was a significant number of exception reports that were not actioned during December 2020 and April 2021. From the evidence provided, there was a lack of oversight in relation to the manual verification process, and there was no policy, guidance or training to ensure the effective handling of exception reports.

It is understood that the data subject was already in custody for another offence at the time of the incident, and as a result of the inaccuracy was further arrested in his cell for the extradition offence. When it was ascertained that the

extradition was no longer sought, the data subject had then been detained for 18 hours longer than necessary.

Furthermore, the exception reports that were not actioned over the 4 month period have since been deleted. This does raise the concern that there may be further records which have not been amended and may still be inaccurate.

However, the ICO notes that whilst there was no legal requirement for [REDACTED] to have informed the UKCA that the extradition was no longer sought, it is considered international courtesy and would have alerted the NCA to the amendment required. Furthermore, consideration has been given to a lack of staff resourcing which was exacerbated by both Brexit and Covid, and that the RPA system had to be developed at pace due to these circumstances. In addition, it has been noted that a NCA Officer proactively identified that there was a gap in process and so initiated a trial for the handling of the exception reports in April 2021 which was a success.

We have also considered and welcome the remedial steps taken by the NCA in light of this incident. In particular, that the importance of the exception reports has now been realised and it is now a daily priority task and a policy has been established that outlines the process for completing exception reports. Further to this continuous development and investment into the RPA system should ensure that future issues are highlighted.

However, after careful consideration and based on the information provided, we have decided to issue the NCA with a reprimand in accordance with Schedule 13 (2) of the DPA 2018.

### **Details of reprimand**

The reprimand has been issued in respect of the following processing operations that have infringed the DPA 2018:

- S. 38 Data Protection Act 18. (accuracy) states the fourth data protection principle is that—  
(a) personal data processed for any of the law enforcement purposes must be accurate and, where necessary, kept up to date.

In particular, NCA did not have a suitable in policy, process or training in place to action the exception reports which led to updates and cancellations to existing Interpol circulations. Appropriate oversight for this action was not in place by the NCA which is further demonstrated by the fact there were no records in place to demonstrate how often officers were manually processing cancellations.

As a result, this led to inaccurate records being held by the NCA and the ultimate arrest of the data subject and demonstrates an infringement of S.38 of the DPA 2018.

### **Further Action Recommended**

The Commissioner recommends that the NCA could take certain steps to improve compliance with DPA2018. In particular:

1. In order to ensure compliance with s.38, the NCA should continue to prioritise and manage the exception reports to ensure that the RPA continues to be an effective tool for the NCA to use and that the RPA is working accurately.
2. In order to ensure compliance with s.38, the NCA should ensure that all members of NCA staff complete annual data protection and information governance training.
3. In order to ensure compliance with s.38, the NCA should consider what steps can be taken to ensure that any outstanding exception reports are actioned.

Whilst the above measures are suggestions, 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 wish to publish the outcome of this investigation to publicise our regulatory authority and new powers under the UK GDPR. This would be in accordance with our Communicating Regulatory and Enforcement Activity Policy, which is available online at the following link:

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We have noted your concerns in relation to such publishing, and will revert to you should we wish to consider publishing any details of this reprimand.

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  
Information Commissioner's Office  


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