

Thank you for the information you sent on 6 November 2018 which relates to your complaint about xxxxxx

The ICO's role [Blog: Using biometric data in a fair, transparent and accountable manner | ICO](#)

Part of our role is to consider complaints from individuals who believe there has been an infringement of their data protection rights. Our role is to consider whether there is an opportunity to improve the information rights practices of organisations. We may not investigate or adjudicate on every individual complaint.

We will put most of our effort into dealing with matters we think give us the best opportunity to make a significant difference to an organisation's information rights practices.

It is up to us to decide whether or not we should take further action. Even where we decide that further action is not required at the moment, perhaps because the organisation has made a mistake but is working to put things right, we will keep concerns on file. This will help us over time to build a picture of an organisation's information rights practices.

Our decision will not affect your ability to enforce your rights through the courts.

Our view

I have considered the information available in relation to this complaint and I am of the view that xxxx has not complied with their data protection obligations. This is because xxxx did not have a legitimate condition for processing special category data in this case biometric data.

We are currently conducting an investigation into this matter with xxxx and found that the consent obtained by them to process biometric data was invalid. This is because an individual had no genuine free choice over whether to consent to the processing of their fingerprints as they would not be able to join the gym or their membership would be cancelled.

Further action

In our ongoing investigation we have been in communication with xxxxx multiple times over the past few months. We have advised xxxxx as to why we believe they do not have a legitimate condition for processing special category data and have provided recommendations for alternative methods for entry into the gym facilities.

Xxxxxx has responded by stating that they are now reviewing their join-up process and the possible introduction of an alternative method to access their gym. They have informed us that they will keep us updated on the progress of their review.

In relation to your request to have your biometric data erased from your customer profile with xxxxx, they have stated that they will erase your biometric data however have stated that they will have to cancel your membership to do this.

As an investigation is currently being conducted it would appear as though xxxx will still have to cancel your membership in order to fully delete your biometric data.

Therefore whilst the investigation is ongoing it is your choice as to whether you want to cancel your membership for the time being to have your biometric data erased from your member's profile. We would advise you to contact xxxx formally regarding this specific matter so that you can make your position clear.

We will keep a record of all the complaints raised with us about the way organisations process personal information. The information we gather from complaints may form the basis for action we may take in the future to ensure organisations meet their information rights obligations.