

5 March 2024

**Ref: IC-286137-G9X4**

I write in response to your email of 8 February 2024 in which you request a review of our response to your request for information. Your request was as follows:

*(1) whether the ICO has had anyone that has come to it about the 'right to be forgotten' in relation to news stories of their convictions as postmasters/postmistresses that are now in the Post Office scandal;*

*(2) if the ICO has made any decision or there has been some resolution in such a case (something to resolve or that will resolve the matter), what the decision is regarding what the search engine has to do or doesn't have to do anything or what resolution has been agreed between the parties to settle the matter/what the ICO has proposed be done between the parties, which they have accepted, in order to resolve it.*

The purpose of an internal review is to look again at your request, at our response, and to check that any exemptions applied were appropriate. I am a Group Manager in the Information Access Team. I have had no prior involvement in the handling of your request.

### **Review response**

You have asked for a review on the basis that you disagree with our application of section 40(5B)(a)(i) to neither confirm nor deny whether information is held within scope of your request. You are of the view that the pool of people who may be seeking to exercise their right to erasure with regards to the reporting of unsafe convictions arising from the Post Office scandal is sufficiently large enough that individuals could not be identified were we to confirm or deny if complaints of this nature had been received by the ICO.

I have considered the response provided, and the points you have raised in your request for review, and I am in agreement with you that section 40(5B)(a)(i) is not engaged in respect of your request. I agree with you that the affected pool of

former Post Masters and Mistresses is large enough to render individuals unidentifiable at a statistical level.

Unfortunately I am still of the view that we are unable to provide the information you have requested. However, this is because conducting the searches necessary to confirm if we hold the information you have asked for would exceed the cost limit set out by section 12 of the Freedom of Information Act 2000 (FOIA).

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 states that the 'appropriate limit' for the ICO is £450. We have determined that £450 would equate to 18 hours work.

Our case management system does not have a field for recording the profession or employment type of people who make complaints to us. This is not information we normally need for our purposes and our system is therefore unable to run a quick automated report on this type of information. To locate the information you have requested would require a manual search of potentially thousands of cases.

Given that your request relates to complaints about the right to be forgotten with regards to news reporting, relevant cases would not be recorded against the Post Office itself, the recorded controller would be a search engine, social media site, a specific newspaper or online news site, or a media organisation as a whole. Furthermore, the length of time prosecutions against Post Masters and Mistresses have been ongoing means that there is no clear window of time in which the ICO would have been likely to receive complaints relevant to your request.

We routinely publish our [datasets](#) of complaints and concerns made to us. In reviewing your request I looked at our most recent dataset of data protection complaints (July-September 2023) and filtered it down by controller and nature of complaint as much as possible. Just in this 3 month window there were 130 cases which would need to be manually checked to see if they were relevant to your request. As you can see, searching all cases held by the ICO, even filtered as much as our case management system allows, would clearly exceed the 18 hours which would accrue a charge of £450 or more, triggering the provisions of section 12 of the FOIA.

### **Advice and assistance**

There is limited advice I can provide in reducing the scope of your request, given it relates to information that the ICO does not record about our customers. Any search for the information you are interested in would necessarily involve a level

of manual searching. We would need to consider if it is in the public interest for us to dedicate the resources necessary to carry out this kind of search, or whether it represents an unreasonable burden on us as a public authority.

You may wish to request searches against a specific newspaper or search engine for a specific time period, as this may bring your request down to a manageable level. However, I would caution you that these search parameters may also make it more likely that specific individuals could be identified, were the ICO to hold information in scope of any revised request. In this instance we would need to reconsider the application of section 40 FOIA.

This concludes my internal review. I appreciate that you may be disappointed with this response but I hope I have been able to explain to you why the ICO is unlikely to be able to provide you with the information that is of interest to you.

### **Complaint procedure**

If you're not satisfied with the outcome of this review, you can make a formal complaint to the ICO as regulator of the FOIA. This complaint will be handled by a separate, independent team of ICO staff, just like a complaint made to the ICO about any other public authority.

You can raise that type of complaint through our [website](#).

### **Your information**

Our [Privacy notice](#) explains what we do with the personal data you provide to us and what your rights are. Our retention schedule can be found [here](#).

Yours sincerely

