

**Date:** 8 February 2024

**IC-281826-G6M4**

## Request

You asked us:

*"do you have any internal guidance, correspondence, lines to take etc on whether the use of CCTV which captures images of people working for a householder in the householder's home (for instance, domestic servants, nannies etc) is still out of material scope of UK GDPR by way of Article 2(2)?"*

We received your request on 11 January 2024. We have handled your request under the Freedom of Information Act 2000 (the FOIA).

## Our response

The specific wording of your request asks whether about held information concerning whether the activities you mention are "*still **out of material scope***" of UK GDPR. However, during my consultations, and if I have understood the information we hold correctly, the information that we hold confirms that the activities you describe are within the scope of UK GDPR. In order to provide a fuller response, I have therefore not limited my search to only information which confirms the negative, but also information demonstrating that it is **in** material scope of the GDPR.

With the above in mind, I can confirm we hold information in scope of your request. Please find attached a bundle containing:

- currently published internal guidance from our 'Knowledge base' which directly addresses the subject of your FOI request; and
- two email chains in which our Knowledge Services team give policy advice following queries from external data controllers.

Some information in the second email chain has been redacted to protect the identity of the organisations making those enquiries and the individuals who are

involved. I rely on section 44 FOIA (working with s.132 Data Protection Act 2018) to make these redactions, as this information was shared with us in our regulatory capacity, relates to an identified business, and has not been made public before. I have redacted as little information so as to prevent identification while also ensuring that the pertinent facts and advice remains intact.

I am aware that the email chains refer to some work being conducted by our Assurance team in this area. I made enquiries with Assurance to determine whether they held relevant information in relation to that work. It confirmed it did not hold information, but that another person in the organisation might hold related information. I also consulted with that person, who advised that the guidance they produced did not directly address the subject of your FOI request. Therefore, this avenue of enquiry did not result in any information in scope of the request, but I wanted to assure you that I had looked into that as it is alluded to in some information disclosed.

I have been made aware of an internal email on 31 March 2020 concerning the proposed development of guidance on personal or household activities. The initial email on 31 March 2020 asked:

*"As I mentioned, I am currently working on developing the guidance on 'personal or household' activity. At the moment, I'm doing some initial research/ scoping work and will consult more widely once I have fully identified the key themes and questions. I would be interested to know whether the internal policy advice team has received any queries/ provided advice on this area and what you consider the main types of issues to be. Some of the main themes appear to be:*

[...]

*Use of technologies, including... domestic CCTV (recording service providers, e.g. plumbers, electricians, carers within the home; outdoor domestic CCTV – location of cameras, use of masking/ blocking out certain areas)..."*

In a subsequent response on 3 March 2020, our Knowledge Services team provided some information about enquiries about work they had conducted. Broadly, the follow up responses are out of scope as they do not directly relate to the specifics of your FOI request. However, one of the attachments is a very early draft of some guidance on 'personal and household activities' from 5 July 2019 which contains limited information in scope of your request. The relevant excerpts are:

***"Does the GDPR apply to domestic CCTV?"***

*The GDPR does not generally apply to domestic CCTV if the cameras only record within the boundaries of your own property.*

*However, the GDPR does apply if you record the street outside your house, or your neighbour's property.*

*The GDPR does apply to CCTV or other surveillance of people who are working inside your home, unless this is occasional and incidental [need to nuance – cf postman, babysitter, quick visit by a plumber vs housekeeper, contractor there for several weeks, care worker].*

[...]

***Does the GDPR apply when I use tradesmen?***

*No. The GDPR does not generally apply to information you hold about tradesmen. This is part of a household activity.*

*However, the GDPR may apply if you specifically record tradesmen working inside your home.*

***Does the GDPR apply if I employ someone inside my home?***

*Yes. Although the activity is inside your household, if you are acting as an employer it is connected with a professional or household activity. You need to comply with the GDPR as an employer.*

*For example, care workers inside the home.*

*Ad hoc informal arrangements such as using a babysitter likely to be a household activity outside the scope of the GDPR.*

***How does the ICO approach complaints about these issues?***

*Targeted, risk-based approach. Not in the business of policing personal relationships or private behaviour. Not the right forum for personal disputes between friends, neighbours or acquaintances, or policing online activity. Are more appropriate avenues for disputes about libel or threatening behaviour. But will review concerns raised and if we identify a genuine issue about invasion of someone else's privacy we may take further action. [Under development]"*

At this juncture I would like to put forward a fairly standard caveat, namely given the age and the draft nature of this document, the Commissioner's views on the matter may have changed.

This concludes our response to your request. I hope you find the information helpful.

### **Next steps**

You can ask us to review our response. Please let us know in writing if you want us to carry out a review. Please do so within 40 working days.

You can read a copy of our full [review procedure](#) on our website.

If we perform a review but you are still dissatisfied, you can complain to the ICO as regulator of the FOIA. This complaint will be handled just like a complaint made to the ICO about any other public authority.

You can [raise a complaint](#) through our website.

### **Your information**

Our [privacy notice](#) explains what we do with the personal data you provide to us, and sets out [your rights](#). Our [Retention and Disposal Policy](#) details how long we keep information.

Yours sincerely



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