

22 April 2024

Case reference: IC-297521-X4L0

We are now in a position to respond to your information request of 29 March.

Request

"I seek information regarding so-called auditing, where 'auditors' film properties and people without consent. The practice is increasing in the UK and has caused alarm at the highest level. Sir Mark Rowley, Commissioner of the Met Police, has 'hit out at "armchair commentators" who film officers while on duty': [\[link\]](#)

Your Wilmslow office has not been immune from the phenomenon either: [\[link\]](#)

I have searched your website using 'filming in public' and 'auditors'. I found a section titled 'Action cameras and other portable surveillance technologies' in 'Additional considerations for technologies other than CCTV'. This section refers to the obligations of organisations capturing footage. My interest is in information explaining to organisations your position about private individuals who film their premises and employees.

- 1. Please provide a copy of your guidance concerning private individuals who film the property and staff of organisations without consent. For example, if someone contacts you seeking advice because a stranger is filming at the entrance of their building, or through a window, have you a set response?*
- 2. Please provide a copy of any correspondence you have had with the Met Police about private individuals filming officers.*
- 3. Please provide copies of minutes, reports, public statements etc in which you refer to private individuals who film the property and staff of organisations without consent."*

We have handled your request for recorded information under the Freedom of Information Act 2000 (FOIA).

Our response

We have conducted reasonable searches and consulted with relevant ICO teams regarding your request. We have focused these on whether we hold information about the data protection concerns in such scenarios, rather than concerns regarding the security of buildings as this is beyond the remit of the ICO as regulator.

We do not hold specific guidance or a set position on this topic that is provided to members of the public, or organisations, who ask for advice about this issue (1). Whilst we may hold requests for advice or data protection complaints from individuals on this topic, the guidance provided would be dependent on the circumstances of the case and responses would be tailored according, i.e. there is no set response or standard wording.

We do not hold correspondence between the ICO and the Metropolitan Police, as an organisation, about the filming of police officers in these circumstances (2). We have interpreted this request to be for correspondence at a stakeholder level, rather than on any data protection concerns we may have received from an individual.

With regards to point 3, this request is broad in scope. Based on the context of your area of interest in, "information explaining to organisations your position about private individuals who film their premises and employees", we have conducted reasonable searches on the central records we hold and consulted with teams likely to hold this information. Specifically, our public advice and data protection complaints service (PADPCS) and relationship management service (stakeholder engagement). We do not hold information within scope of this request.

If you are interested in information we may hold in a another specific area of the organisation, please advise and we can respond accordingly.

We do publish minutes of meetings of senior management teams on our website [here](#). Initial searches of the agenda items did not return any results for this topic area.

Below we have provided advice and assistance on relevant guidance and areas of legislation that are pertinent to this issue. These resources would likely form the basis of any guidance we would give to a member of the public or organisation if we were approached for advice on this topic.

Advice and assistance

[Article 2\(2\)\(c\)](#) of the UK General Data Protection Regulation (UK GDPR) does not apply to individuals recording video footage in public if it is only used for personal purposes. However, if these recordings are shared beyond their family or friends and posted publicly online the UK GDPR and its rights and obligations would likely apply.

That person may then be considered a data controller, and be subject to the provisions of data protection legislation. They would need to consider data protection principles, the [lawful basis](#) for processing and other people's rights, such as the [right to object](#) to the processing.

The requirement to register with the ICO is set out in the [Data Protection \(Charges and Information\) Regulations 2018 \(DPCIR\)](#). Failure to register represents a failure to comply DPCIR, rather than UK GDPR. For those who may need to register we provide an online [registration self-assessment tool](#) on our website.

[Article 85](#) of the UK GDPR includes a duty to reconcile data protection with the right to freedom of expression, including processing for journalistic purposes. The journalistic exemption in the Data Protection Act (DPA 2018) [schedule 2, part 5, paragraph 26](#) relieves organisations from their obligations regarding a number of UK GDPR provisions.

For an individual or organisation to apply the journalistic exemption they must be able to demonstrate the following:

- As controller for the processing of personal data, they reasonably believe that compliance with these provisions would be incompatible with the special purposes (this must be more than just an inconvenience);
- The processing is being carried out with a view to the publication of some journalistic, academic, artistic or literary material; and
- They reasonably believe that the publication of the material would be in the public interest, taking into account the special importance of the general public interest in freedom of expression, any specific public interest in the particular subject, and the potential to harm individuals.

They would need to explain why the exemption is required in each case, and how and by whom this was considered at the time. You can read our [draft journalism code of practice](#) on our website.

Individuals who have concerns about how their personal data has been handled can [make a complaint](#) to us on our website, or consider taking civil action.

Further information on these and related topics can be found at the links below. We have not included the published guidance you have already identified.

[Advice for small businesses](#)

[What are 'controllers' and 'processors'?](#)

[Data protection fee](#)

[A guide to the data protection exemptions](#)

[Apply the journalism exemption](#)

[What are the substantial public interest conditions?](#)

[Drones](#)

This concludes our response to your request. We hope you found this 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 [here](#).

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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For information about what we do with personal data see [our privacy notice](#)