

13 November 2024

Reference number: IC-340327-G4H1

Request

On 6 September 2024, you sent us a request which contained the following wording: *"I am making a FOI request about the issue of how the ICO protects criminals by telling everyone that photographic evidence of shoplifting such as photographs of shoplifters at work, should not be shared with the general public as shoplifters are entitled to privacy while they commit their criminal offences. This is so absurd, and ridiculous that it is beyond belief. They are committing their offences on private property, but a shop is not a private place, it is open to the public. Therefore, it is not a breach of the GDPR to see a shoplifter in a shop, unless you are accessing CCTV to do so. There is an article How data protection law can help retailers tackle shoplifting in which it is stated that it would breach privacy laws to share such images with the public. How then are criminals to be identified and stopped? It is costing everyone millions of pounds each year as the cost of our purchases is increased to include the cost of the losses being made by shops due to shoplifting. My question is, 1. has any shoplifter complained to you that his privacy has been breached and how did you respond? 2. Has your allegation of the effect of the GDPR ever been tested in court?"*

The above numbers have been added by us to make this request easier to understand.

On 10 September 2024, the ICO sent you a clarification email. In this, we explained we did not need clarification for part 1 but did require it for part 2.

You responded to this email on 12 September 2024, however, clarification was not provided.

Due to this, we requested clarification again on 13 September 2024.

You responded on the same date to advise you were withdrawing your request.

The ICO contacted you on 16 September 2024 to enquire if you were withdrawing both parts of your requests or just part 2 which was subject to clarification.

We did not receive a response to this email so contacted you again on 24 September to advise that it was our understanding that you were withdrawing your whole request and you should contact us if this is incorrect.

You contacted us on 16 October 2024 to advise that you were not withdrawing your requests.

We contacted you on 17 October 2024 to advise that we still required clarification to part 2 of your request.

You responded on 18 October 2024 with clarification around the information you were seeking.

The above occurred on case IC-330437-F4Q9, however, that case was closed when the request was withdrawn. Due to this, we have created this case to issue our response.

After clarification was received, we understand your requests to be for the following:

Part 1. *'Has any shoplifter complained to you that his privacy has been breached and how did you respond?'*

Part 2. My specific questions are on the [article](#) on your website...dated 24 October 2023 "How data protection law can help retailers tackle shoplifting".

- 1. "Information can only be made available to a limited number of people".*
- 2. Where does it say in the UK GDPR that information can only be made available to a limited number of people?*
- 3. What is the limit on that number of people prescribed by this legislation?*
- 4. If the limit was not prescribed in the UK GDPR but is judge-made law, please identify the court case in which this decision was made and provide a link to the case report. If it was an unreported case, please provide a transcript of the judgment.*
- 5. "...posting it on an on-line retail-related social media platform are less likely to be justifiable". Is there a court case in which a judge decided it was not justifiable to post CCTV feeds, or photographs of shoplifters, on a social media platform? Please identify the case referred to as above.*
- 6. Has the ICO written any paper, letter or report on the subject of such postings mentioned above, expressing the opinion that the existing system of tackling shoplifting is working well, and therefore no further measures are necessary to assist retailers in tackling shoplifting?*

7. Has the ICO threatened retailers that they will be prosecuted for breaches of the UK GDPR if they post such CCTV feeds on social media? Please provide details of such threats and the response received.

8. Has the ICO taken any action to attempt to close down websites that provide access to such CCTV feeds or photographs of wanted shoplifters? Please provide details of all actions taken and the outcome."

The above link has been added by us so it is obvious what article is being referred to.

We have received your requests on 18 October 2024 as this is the date you provided clarification for your requests.

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

Our response

Our response to part 1 is below.

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.

Based on the wording of your request, we have limited our searches to cases we hold where the subsector is 'supplier of goods' as this covers retail establishments. We have taken this action as we are required to undertake reasonable searches and this is the most likely place where information would be held.

At the time your request was received, we held 3,933 cases on our case management system for this subsector. To locate the information you have requested would require a manual search of these cases to see if anyone has identified themselves as a shoplifter in their complaint to us. It should be noted, we would have to check every piece of correspondence an individual has sent to us as this information could be contained in any part of it.

It should also be noted that our case management system records individual's by their name and contact details. Due to this, we cannot quickly identify those that have identified themselves as shoplifters, should this have happened. This means we are unable to run a quick automated report on this type of information nor are we able to reduce the number of cases which have to be searched.

Even using an estimate where it would take one minute to complete each search – and it is certain that some searches would take much longer than that – this would equate to over 65.5 hours' worth of searching. This clearly exceeds the 18 hours which would accrue a charge of £450 or more, triggering the provisions of section 12 of the FOIA.

Advice and Assistance

You may be able to bring your request under the cost limit by:

- Asking for information within a particular time period.
- Asking for information about a particular data controller or data controllers.
- Asking for information which has been sent to us by specific individuals.
- Asking for information from a particular post code or post codes.

For the last bullet point, we feel it important to mention that the contact addresses for some data controllers will be set up against their head office address and not their individual shops. Supermarkets and high street shop chains would be an example of this.

We record cases against an organisation's head office address which means that asking for information by post code may not necessarily provide all the cases held for that post code. We have provided you this information so that you are aware of how our information is stored, which will hopefully help to avoid any confusion should you choose to use this method to refine your request.

If the request can be brought under the cost limit, as we still need to complete manual searches, 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. Even if the searches to complete a request will take less than the 18 hours limit, a single request can still be refused if it is deemed to represent an unreasonable burden.

We have provided you with this information so you are aware that future requests, which require manual searches, may be refused but this does not necessarily mean this will happen and will be dependent upon the information

requested. Please do not be discouraged from making future requests as we consider each one a case by case basis.

Our response to part 2 is below.

Requests 1, 2 and 3.

These are not requests for information we would hold but are queries about the UK GDPR legislation. As such, we have forwarded these queries to our Public Advice Team to provide a response.

Requests 4 and 5.

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.

The requested information is not information we normally need for our purposes and the system where these cases are stored is unable to run a quick automated report on this type of information. Therefore, to locate the information you have requested would require a manual search of the information held on at least 106 cases.

It is estimated that each search would take 1-2 hours to complete – and it is possible that some searches would take much longer than that. This would equate to over at least 106 hours' worth of searching, although the maximum could be 212 hours' worth of searching. This clearly exceeds the 18 hours which would accrue a charge of £450 or more, triggering the provisions of section 12 of the FOIA.

We also feel it important to note that we have identified 106 cases at this point in time, however, it is highly likely that there will be other cases for us to consider meaning the figures above will increase.

It should be noted that we have not attempted to identify every possible case in scope as the cost limit is already grossly exceeded with the cases identified above.

We would also like to explain that we are satisfied that these requests are similarly related enough, requests for court cases, that they should be combined for the purposes of us considering if the cost limit is exceeded.

Advice and assistance

You may be able to bring your request under the cost limit by:

- Asking for court cases within a particular time period.
- Asking for court cases from a particular court.
- Asking for court cases about a particular party or parties.
- Asking for specific court cases.

If the request can be brought under the cost limit, as we still need to complete manual searches, 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. Even if the searches to complete a request will take less than the 18 hours limit, a single request can still be refused if it is deemed to represent an [unreasonable burden](#).

We have provided you with this information so you are aware that future requests, which require manual searches, may be refused but this does not necessarily mean this will happen and will be dependent upon the information requested. Please do not be discouraged from making future requests as we consider each one a case by case basis.

We feel it important to note that, generally, the ICO only holds information regarding cases which we have been party too. As well as this, court cases, and their subsequent judgements, can be created without the involvement of the ICO.

As such, we would also like to advise that previous case law can be viewed via [The National Archives](#). You may find it beneficial to conduct searches on this website as you may find information in the scope of this part of your request. You may also be able to use this website to provide you information which allows you to reduce the scope of your request, for example, identifying a particular court which you would like to ask us about.

Request 6.

Having conducted a reasonable search of our records, we can confirm that we do not hold information in the scope of your request. This is because no such paper or report has been created by the ICO.

Request 7.

As the ICO does not threaten organisations, we have interpreted this part of your request to be a request to know if the ICO has mentioned that enforcement action may be taken against retailers for the situation you have described.

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.

We have limited our searches to cases we hold where the subsector is 'supplier of goods' as this covers retail establishments, which is what you have requested information about. At the time your request was received, we held 3,933 cases on our case management system.

In order to locate the information you have requested would require a manual search of all the correspondence sent to an organisation as the requested information could be contained in any correspondence. This would need to be completed on all of the 3,933 cases mentioned above. It should also be noted that our case management system is unable to run a quick automated report on this type of information.

Even using an estimate where it would take one minute to complete each search – and it is certain that some searches would take much longer than that – this would equate to over 65.5 hours' worth of searching. This clearly exceeds the 18 hours which would accrue a charge of £450 or more, triggering the provisions of section 12 of the FOIA.

Advice and Assistance

You may be able to bring your request under the cost limit by:

- Asking for information within a particular time period.
- Asking for information relating to a particular retailer or retailers.
- Asking for information about a particular type of [enforcement action](#).

If the request can be brought under the cost limit, as we still need to complete manual searches, 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. Even if the searches to complete a request will take less than the 18 hours limit, a single request can still be refused if it is deemed to represent an unreasonable burden.

We have provided you with this information so you are aware that future requests, which require manual searches, may be refused but this does not necessarily mean this will happen and will be dependent upon the information requested. Please do not be discouraged from making future requests as we consider each one a case by case basis.

Please also note, we have provided you with three section 12 responses as we are satisfied that these requests are not in the same overarching theme as explained below:

- Your 'part 1' request is about complaints we have received.
- Requests 4 and 5, from 'part 2', are about court cases.
- Request 7 from 'part 2' is about action we have taken.

Request 8.

We have understood this part of your request to be referring to websites where shoplifters are 'named and shamed' and evidence of their alleged crime, for example CCTV feeds, are uploaded to the website.

Having conducted a reasonable search of our records, we can confirm that we do not hold information in the scope of this part of your request.

This concludes our response.

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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