



Chris [REDACTED]

Your email to the ICO - Case Reference IC- [REDACTED]

2 messages

icocasework <icocasework@ico.org.uk>

20 March 2024 at 12:25

To: Chris Bury [REDACTED]

20 March 2024

Case Reference: IC [REDACTED]

Dear Chris Bury

Thank you for your email of 20 March 2024.

I am unable to provide any further advice around the legal process or enter into a discussion over what is considered personal data, I apologise that I am unable to assist you further. Our guidance on what is considered personal data may be useful to you [What is personal data? | ICO](#).

Yours sincerely,

Will Shepherd
Lead Case Officer
Information Commissioner's Office

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF
T. 03304146622 ico.org.uk twitter.com/iconews
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For information about what we do with personal data see our privacy notice at www.ico.org.uk/privacy-notice.

----- Original Message -----

External: This email originated outside the ICO.

Dear Mr Sheperd,

Thank you for your response dated March 19, 2024.

As previously mentioned, the data logs of IP addresses I requested from Herefordshire Council and Forcepoint may not be personal data on their own. However, it's essential to highlight that the specific information within the data logs in question, including timestamps, dates, and any associated data collected via or through the IP addresses, reveal identifiable links to my personal data, website and social media. Consequently, these should be regarded as identifier data to which I am legally entitled to view or obtain copies, notably as the data involves for the purpose of the detection of an unlawful act by Herefordshire council.

Additionally, while I appreciate your efforts to clarify the matter, I find some aspects of your response concerning and warranting further discussion.

Regarding the classification of IP addresses as personal data, while it's acknowledged that an IP address alone may not directly identify an individual, it's crucial to recognize that in conjunction with other data points, it can indeed lead to identification. Dismissing the potential identifiability of IP addresses overlooks the reality of modern data analytics and tracking capabilities, which can link seemingly anonymised data back to specific individuals. Therefore, I maintain my stance that in certain contexts, IP addresses should be treated as personal data.

Furthermore, your assertion that only personal data can be requested via a Subject Access Request (SAR) overlooks the broader scope of data protection rights. While it's understood that SARs are primarily for accessing personal data, individuals also have the right to request all information about

themselves, including non-personal data that may impact their rights or interests. Therefore, I respectfully disagree with the notion that intellectual property rights and extended information relating to personal data should preclude access to relevant information via a SAR.

Additionally, while I understand your limitations in providing legal advice, I expected at least some guidance or direction on how to navigate potential legal avenues. As a regulatory body overseeing data protection matters, it would be beneficial for the ICO to provide general advice or resources to individuals seeking redress for potential data protection breaches. Your response falls short in this regard, leaving individuals like myself without clear guidance on how to pursue further action.

In conclusion, I urge you to reconsider the implications of your responses and provide more nuanced guidance that reflects the complexities of modern data protection issues. As an organisation tasked with safeguarding individuals' data rights, it's imperative that the ICO offers comprehensive support and assistance to those seeking to exercise their rights effectively.

Thank you for your attention to this matter. I look forward to your response and any further insights or assistance you can provide.

Sincerely
Chris Bury



Sender notified by
Mailtrack

On Tue, 19 Mar 2024 at 09:33, icocasework <icocasework@ico.org.uk> wrote:

19 March 2024

Case Reference: IC-[REDACTED]

Dear Chris Bury

Thank you for your email of 19 March 2024.

The IP address, which I understand is a string of numbers, does not identify an individual directly but may be used to identify an individual depending on other information available, it would depend on whether it is being used to identify as to whether it would be considered personal data, in most cases the IP address is not registered an individual but to a particular device/network connection and would likely not be able to be used to identify an individual.

Furthermore if the IP address in question does not belong to a device/connection that belongs to you it would definitely not be your own personal data and not something you can request via a SAR. In regard to intellectual property, this will have no bearing on whether you can request information via a SAR, you can only request copies of your personal data.

I am unable to provide any further advice about how you may take this process to the courts nor recommend any specific legal organisation, we are not legally trained and cannot legally provide any advice of this nature.

Yours sincerely,

Will Shepherd
Lead Case Officer
Information Commissioner's Office

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF
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----- Original Message -----

External: This email originated outside the ICO.

Dear Mr Thank you for your email of 17 March 2024.

I understand that an IP address may not be considered the personal data of another individual, if this is the case then it would also mean that it could not be your own personal data and therefore not something you can request information about via a SAR. Personal data is only information that relates to you as an identifiable individual.

Intellectual property is not regulated by the data protection legislation, this would be information you legally own but may not relate to your identity therefore falling outside the scope of our regulation.,

The ICO cannot assist you with the court process, you can pursue this matter through the courts if you believe information has been wrongfully withheld from you but I have to suggest you seek legal advice before doing so. Our response to your complaint is not legally binding and is just our view of your complaint.

I do not view their to be any further action for the ICO to take in this instance however I am happy to answer any questions you might have or provide any advice about your information rights.

Yours sincerely,

Dear Mr Sheperd,

Thank you for your response of the 18th March 2024.

While you appear to have now changed your view regarding the IP addresses potentially constituting personal data of council employees to not forming their personal data, I maintain that along with the additional data collected via the IP addresses in question, they may indeed constitute part of my data, as they render me identifiable.

I have carefully reviewed the points outlined in your email and seek further clarification on a few matters.

Firstly, as mentioned previously and regarding the classification of IP addresses as personal data, I believe under data protection regulation there exist circumstances where an IP address can indeed be considered as personally identifiable information, particularly when combined with other data or when it can be traced back to an individual, as is evident with my case.

Therefore, could you please provide more insight into the specific criteria under which an IP address is not considered personal data?

Additionally, while I understand the distinction between intellectual property rights and data protection legislation, I would appreciate ICO guidance regarding how to navigate situations where intellectual property may intersect with privacy concerns.

Furthermore, it is not a question of belief that information is being withheld from me by Herefordshire Council, but one of fact, as can be evidenced in communications.

I would, therefore, like to inquire about the ICO's recommended steps for pursuing legal action, as suggested in your response.

Could you kindly provide guidance on how to proceed or recommend resources where I can seek legal advice in this matter?

Thank you once again for your assistance. I eagerly await your view, and ICO guidance and suggestions that you may have regarding this issue, welcoming an early reply.

Sincerely

Chris Bury



Sender notified by
Mailtrack

On Mon, 18 Mar 2024 at 08:24, icocasework <icocasework@ico.org.uk> wrote:

18 March 2024

Case Reference: IC-[REDACTED]

Dear Chris Bury

Thank you for your email of 17 March 2024.

I understand that an IP address may not be considered the personal data of another individual, if this is the case then it would also mean that it could not be your own personal data and therefore not something you can request information about via a SAR. Personal data is only information that relates to you as an identifiable individual.

Intellectual property is not regulated by the data protection legislation, this would be information you legally own but may not relate to your identity therefore falling outside the scope of our regulation.,

The ICO cannot assist you with the court process, you can pursue this matter through the courts if you believe information has been wrongfully withheld from you but I have to suggest you seek legal advice before doing so. Our response to your complaint is not legally binding and is just our view of your complaint.

I do not view their to be any further action for the ICO to take in this instance however I am happy to answer any questions you might have or provide any advice about your information rights.

Yours sincerely,

Will Shepherd
Lead Case Officer
Information Commissioner's Office

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----- Original Message -----

External: This email originated outside the ICO.

Dear Mr. Shepherd,

Thank you for your email of the 6th March 2024.

I am writing to address your response and assessment of my SAR and provide further context regarding the information I seek.

Firstly, I would like to express my concern regarding Forcepoint's failure to correctly forward my request to Herefordshire Council (the data controller).

While I appreciate your intention to address this oversight, "Forcepoints negligence" has resulted in a delay and may have led to further complications, including the potential additional spoliation of evidence.

Regarding your assessment of whether the information requested constitutes the personal data of employees under the UK GDPR, I understand your perspective. However, I respectfully maintain that under the GDPR the IP addresses accessing my website and social media from the organisations' network IP addresses which I request data logs for would not constitute the personal data of an individual employee without additional contextual information and for each particular case.

Given these complexities, I believe it is crucial to consider the broader context of the data flow, including the collection of and related intellectual property through the IP addresses in question.

While I appreciate your attention to this matter and intention to inform Forcepoint of their obligation to forward requests, I would like to explore further dialogue to ensure clarity and potentially identify alternative approaches, conceivably seeking a court order to obtain the requested data logs for the purpose of the detection of an unlawful act under the Data Protection

Act 2018.

I look forward to any further insights or steps we can take to address this issue, lawfully obtaining the logs I have requested.

Sincerely

Chris Bury



Mailtrack

Sender notified by
Mailtrack

On Wed, 6 Mar 2024 at 10:31, icocasework <icocasework@ico.org.uk> wrote:

6 March 2024

Case Reference: IC [REDACTED]

Dear Chris Bury

Thank you for your email of 27 February 2024.

I have reviewed the information provided and can see that Forcepoint have responded to your request but have failed to correctly forward this request to the data controller Herefordshire Council.

I have also reviewed your SAR and it would be my view that the information you are requesting would likely not be considered personal data as defined by the UK GDPR, you have asked for the IP addresses that have accessed your website/social media, if these are not your own then they would not be able to identify you. The other information you have asked for would not be considered your personal data, and may in some cases be considered the personal data of someone else.

I will write to Forcepoint to inform them of their obligation to forward on requests, however the ICO will not be taking any further action beyond this.

Yours sincerely,

Will Shepherd
Lead Case Officer
Information Commissioner's Office

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

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Dear Mr Sheherd,

Please find attached the requested communications:

(Gmail - Request for Forcepoint Log Files.pdf)

(Gmail - RE_ EXTERNAL_ Re_ Request for Forcepoint Log Files.pdf).

I have also included a copy of my request letter to Forcepoint via Twitter DM (dated 11-11-2023), both manually exported and as a .pdf export and a separate screenshot with letter attachment:

(Twitter Forcepoint DM 13-11-2023.jpg)

(whileincare-ForcepointSec.pdf)

And the reply attachment letter (Forcepoint Letter re logs data 17-11-2023.pdf)

No, my communications remain punitively restricted by Herefordshire Council and the data logs I requested are also those held by Forcepoint.

If you can provide guidance on how I apply for a court order to obtain the data this would be helpful for my IPT case.

Sincerely

Chris Bury



Sender notified by
Mailtrack

On Mon, 26 Feb 2024 at 12:41, icocasework <icocasework@ico.org.uk> wrote:

26 February 2024

Case Reference: IC- [REDACTED]

Dear Chris Bury

Thank you for your email of 22 February 2024.

Please could you send us copies of the correspondence you have had with Forcepoint? Have you sent any correspondence to the council directly about your request?

Yours sincerely,

Will Shepherd
Lead Case Officer
Information Commissioner's Office

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Dear Mr Shepherd,

Case Reference: IC- [REDACTED]

Thank you for contacting me. I confirm that I have not received any response from Herefordshire Council.

Furthermore, the ongoing strained relationship has resulted in my communications being prejudicially handled by Herefordshire Council.

To provide some context, my SAR was submitted to Forcepoint, Herefordshire Council's VPN/proxy service provider, on the 14th of November, 2023.

It was responded to by Mr Michael Leach (compliance manager for Forcepoint) who informed me Forcepoint were the data processor for Herefordshire Council.

I contacted Mr Leach again on the 14th of December 2023, requesting an update and asked whether my requested data had been sent to the Investigatory Powers tribunal. Mr Leach implied my SAR request was not lawful and would only deal with such request if provided by the IPT.

I am mindful that under the GDPR, a data processor's duty concerning subject access requests, while not explicit, is to promptly forward any SAR they receive to the data controller, And upon receiving a SAR the data processor must inform the data subject without undue delay that it has forwarded the request to the data controller.

Herefordshire Council has not responded, and neither organisation has provided the requested data to me to date.

Thank you for your attention to this matter. I look forward to your prompt response.

Sincerely

Chris Bury



Sender notified by
Mailtrack

On Wed, 21 Feb 2024 at 10:47, icocasework <icocasework@ico.org.uk> wrote:

21 February 2024

Case Reference: IC [REDACTED]

Dear Chris Bury

Thank you for your email of 31 January 2024.

Please could you confirm whether you have had any response from Herefordshire Council in regard to your SAR? Have you chased them for a response?

Yours sincerely,

Will Shepherd
Lead Case Officer
Information Commissioner's Office

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Dear Sir/Madam,

I am writing to address concerns regarding the handling of my Subject Access Request (SAR) dated the 11th of November, 2023, for data logs held by Herefordshire Council and their provider, Forcepoint.

Unfortunately, it has been over 30 days since I requested the data from Forcepoint & Herefordshire Council, and no response or provision of the requested data logs has been provided from said council to date.

I understand that processing information requests can take time. However, I would appreciate an update on the status of my SAR and an estimated timeframe for its completion.

Given the time already elapsed, I would appreciate your guidance on the next steps to ensure I obtain the requested data, and explore options to guarantee I receive the

information.

I would appreciate an expedited response and welcome an early reply.

Sincerely

Chris Bury



Sender notified by
Mailtrack

Chris [REDACTED]

22 March 2024 at 21:57

To: icocasework <icocasework@ico.org.uk>

Dear Mr. Sheperd,

I appreciate your effort in corresponding with Forcepoint regarding their negligence in forwarding my SAR to Herefordshire Council. However, I must express my concern regarding discrepancies in the response provided by you as the ICO case worker and your interpretation of personal data, particularly concerning direct or indirect identifiers.

I maintain that the data logs I requested, along with the information I hold, independently of Herefordshire Council's monitoring and data collection, can identify me as the subject. Therefore, I firmly believe that these logs should rightfully be provided to me as a 'natural' person under the scope of my SAR for lawful purposes, including the detection of unlawful activity, as previously explained.

Furthermore, I am disappointed to note that you do not possess legal training as a lead case handler, and I urge the provision of guidance in this matter. Given the ICO's role in regulating Data Protection and upholding information rights in the public interest, I believe it is essential to receive informed support in navigating this process.

Sincerely
Chris Bury



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[Quoted text hidden]