

First ICO Right To Be Forgotten Order against Google

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In the first case of its type the UK's Information Commissioner's Office (ICO) has issued an enforcement notice (found [here](#)) against Google Inc. ordering it to remove nine search results that the ICO has deemed to be linked to information about a person that is no longer relevant.

It will be recalled that the Right To Be Forgotten was thrust into the limelight in last year's European Court of Justice Spanish Google case where the court ruled that the individual in question there had the right to request internet search engines like Google to remove results linking websites containing inaccurate, inadequate, irrelevant or excessive personal information relating to that individual, which we wrote about [here](#) and which we have continued to highlight in articles that can be found [here](#) and most recently did a podcast about [here](#).

Google has since been flooded by Right To Be Forgotten requests. The question of whether a decision-maker delists or not in such cases is a balancing exercise that involves weighing an individual's right to privacy against the public interest in having access to the information in question - each case will turn on its facts.

In the current case, a Right To Be Forgotten request was made to Google by an individual who asked for the removal of a link to a website containing a report about a criminal conviction for that individual. Google acceded to the request and removed the link, and, also informed the website owner at the same time. However, media stories subsequently appeared on the internet about the original report. The individual in question then made a new Right To Be Forgotten request to Google about the new stories, but this time Google refused to remove the new links on the basis that the new links were relevant and in the public interest.

The individual then complained to the ICO about this who concluded that: the information in question (which was clearly personal) about the individual was no longer current (the conviction was almost ten years old); and, the (new) data processing of this information was having a disproportionately negative impact on the individual's privacy as it related to a minor spent offence that was not the subject of public debate and there was no public interest in making this information available. The ICO also added that any journalistic interest in this matter could be pursued without making a search based on the individual's name providing links to articles about the individual's conviction. The ICO therefore ordered Google to remove the links within 35 days of the date of the notice - Google has the right to appeal this notice before a court (the First-tier Tribunal).

In backlash reaction fashion, but perhaps understandably when seen in the context of the controversy surrounding The Right To Be Forgotten case and the issue of the freedom of expression, the media has often reported again on stories that have been delisted. This case is therefore noteworthy in that it is a data protection regulator's ruling against instances of re-reporting and it will be interesting to see if Google takes it to appeal as a kind of test case.

The Right To Be Forgotten is also set out (in a more extended fashion) in the proposed EU Data Protection Regulation, which we most recently wrote an FAQs about [here](#).

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