Biometric data guidance consultation

Start date: 18 August 2023

End date: 20 October 2023

Consultation on draft guidance for biometric data

The call for supporting evidence will remain open until **20 October 2023**. The ICO welcomes feedback on the specific questions set out below.

Please submit responses by **5pm on 20 October 2023**.

We may not consider responses submitted after the deadline.

Or print off this document and post to:

Identity and Trust Team (Technology Policy)

Information Commissioner’s Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

If you have any general queries about the call for supporting evidence or would like further information, please email the team at [biometrics@ico.org.uk](mailto:biometrics@ico.org.uk)

**Privacy statement**

For this call for supporting evidence, we may publish a summary of the responses but will not publish the actual responses received from organisations or individuals.

Should we receive an FOI request for your response we will need to consider whether we make it available. However, at this point, we would always seek to consult with you for your views on the disclosure of this information before any decision is made.

For more information about what we do with personal data please see our [privacy notice](https://ico.org.uk/global/privacy-notice/responding-to-our-consultation-requests-and-surveys/).

### Our questions

Answers to the following questions will be helpful in shaping our guidance and the supporting impact assessment. Some of the questions will not be relevant to you or your organisation, so please skip these as necessary or, as indicated in the descriptions.

1. How far do you agree that this guidance clearly sets out what data protection law defines as biometric data?

☐ Strongly agree

☐ Agree

☐ Disagree

☐ Strongly disagree

☐ Unsure/don’t know

Comments:

1. How far do you agree that this guidance sets out clearly the different tests for identifiability (i.e. whether data can be considered personal data) and unique identifiability (the test for biometric data?)

☐ Strongly agree

☐ Agree

☐ Disagree

☐ Strongly disagree

☐ Unsure/don’t know

Comments:

1. How far do you agree that the approach of using terms from industry standards (ie biometric recognition) assists in understanding how data protection law applies to biometrics.

☐ Strongly agree

☐ Agree

☐ Disagree

☐ Strongly disagree

☐ Unsure/don’t know

Q3a Could this approach be adopted further in this guidance?

Please provide examples in the comments section below, along with any further reflections you have on this question.

Comments:

1. How far do you agree that the guidance clearly explains the legal status of biometric data when used for biometric recognition purposes (ie that a further condition for processing special category data is required?)

☐ Strongly agree

☐ Agree

☐ Disagree

☐ Strongly disagree

☐ Unsure/don’t know

Comments:

1. Are there other conditions for processing that you feel organisations could rely on to use biometric recognition, and would you be willing to be contacted to provide details for a potential case study?

☐ Yes, and willing to provide a case study

☐ Yes, but not willing to provide a case study

☐ No

*if you have indicated you are willing to provide a case study, please contact* [*biometrics@ico.org.uk*](mailto:biometrics@ico.org.uk)

Comments:

1. How far do you agree that this guidance adequately describes the potential benefits **and** the possible risks of harm of deploying biometric recognition solutions?

☐ Strongly agree

☐ Agree

☐ Disagree

☐ Strongly disagree

☐ Unsure/don’t know

Comments:

1. How far do you agree that the case studies are clear, realistic examples of how biometric solutions could be deployed, and the relevant data protection considerations?

☐ Strongly agree

☐ Agree

☐ Disagree

☐ Strongly disagree

☐ Unsure/don’t know

Comments:

1. How far do you agree that this guidance provides a clear explanation of all data protection obligations when using biometric data?

☐ Strongly agree

☐ Agree

☐ Disagree

☐ Strongly disagree

☐ Unsure/don’t know

Comments:

1. Are there any areas of this guidance that you found unclear, or require further detail? Please provide as much detail as possible.

Comments:

1. Do you have any observations about what further detail would improve this guidance?

Comments:

### Impact Assessment

The following questions are about our impact assessment. Some of the questions may not be relevant to you or your organisation so please skip these as necessary, or as indicated in the descriptions.

**Impact assessment summary table**

We are seeking views on our [impact assessment summary table](https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/guidance-on-biometric-data/annex/), which was provided as supporting evidence for the consultation. This sets out a high-level overview of the types of impacts that we have considered.

We will consider the proportionality of further assessment of the impacts as we move towards final publication of the guidance.

1. To what extent do you agree that the impact assessment summary table adequately scopes the main affected groups and associated impacts?

☐ Strongly agree

☐ Agree

☐ Disagree

☐ Strongly disagree

☐ Unsure/don’t know

1. Can you provide us with any further evidence for us to consider in our impact assessment?

☐ Yes

☐ No

If yes, please could you provide the impact evidence or a link to it in the box below, or contact details where we can reach you to discuss further.

*Answer in OPEN TEXT BOX, 1500 characters*

**Impacts on your organisation**

These questions are specifically for respondents that **are acting on behalf of an organisation.** If you are not acting on behalf of an organisation, please skip straight to the ‘About you’ section.

1. Who in your organisation needs to read the guidance? (Please provide job titles or roles, not people’s names).

*Answer in OPEN TEXT BOX, 1500 characters*

1. To what extent (if at all) do data protection issues affect strategic or business decisions within your organisation?
   1. Data protection is a major feature in most of our decision making
   2. Data protection is a major feature but only in specific circumstances
   3. Data protection is a relatively minor feature in decision making
   4. Data protection does not feature in decision making
   5. Unsure / don't know
2. Do you think the guidance set out in this document presents additional: (select one option)
   1. cost(s) or burden(s) to your organisation
   2. benefit(s) to your organisation
   3. Both
   4. Neither
   5. Unsure / don't know

*IF ANSWER TO Q5 is a,b or c, then ask questions 16, 17 and 18.*

1. Could you please describe the types of additional costs or benefits you might incur?

*Answer in OPEN TEXT BOX, 1500 characters*

1. Can you provide an estimate of the costs or benefits you are likely to incur and briefly how you have calculated these?

*Answer in OPEN TEXT BOX, 1500 characters*

1. Please provide any further comments or suggestions you may have about how the guidance might impact your organisation.

*Answer in OPEN TEXT BOX, 1500 characters*

**About you**

Q11: Are you answering as: (tick all that apply)

An organisation or person employing workers

A legal representative of a developer or adopter of

A representative of a professional, industry or trade association

An organisation representing the interests of employees, workers or the self-employed (eg charity, employment advocacy organisation)

A trade union

A recruitment agency

An academic

A supplier of biometric solutions

An individual acting in a professional capacity

An individual acting in a private capacity (eg someone providing their views as a member of the public)

An ICO employee

Other

If you state ‘Other’ please ensure that you specify here:

Q12: If you are representing an organisation, please specify the name of your organisation (optional):

Q13: How would you describe your organisation?

0 to 9 members of staff

10 to 249 members of staff

250 to 499 members of staff

500 or more members of staff

Q14: What best describes your current position in relation to biometric technologies (tick all that apply)

A developer of biometric recognition systems

A developer of other biometric systems (not biometric recognition)

A potential adopter of biometric technologies

A current user of biometric technologies

A representative of civil society/academia

A regulator/local/regional/national government

Other (please state below)

Q15: What best describes your **main** area of interest for biometrics?

Biometric verification: (use cases around access control/ time recording)

Biometric identification (use cases around recognition)

Other biometric use-cases (detection)

Other biometric use-cases (categorisation/classification)

Other (please state below)

Q16 We may want to contact you about our impact assessment and some of the points you have raised. If you are happy for us to do this, please provide your email address:

**Thank you for taking the time to complete this consultation.**