

14 June 2023

IC-233598-M1R7

Request

You asked us:

"Under the Freedom of Information Act please advise the following:

- 1) Please provide a list of educational establishments using fingerprint technology for students 18 and under.*
- 2) Please provide your advice to companies which are providers to schools and schools/educational establishments wishing to use fingerprint technology. (This would include advice ref GDPR and Data Protection Act 2018).*
- 3) Please advise if you have been approached by any companies wishing to supply fingerprint to schools and provide all communications you have had with them, this includes all communications, i.e. minutes of meetings, letters, emails, video calls, etc.*
- 4) Please advise if your office has examined or have any details of standards any fingerprint technology hardware and software to be used in educational establishments.*
- 5) Please advise where in the schools fingerprint technology is being used and what is the purpose?*
- 6) Please advise of any correspondence in relation to concerns with fingerprint technology."*

We received your request on 18 May 2023.

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

Our response

It is not possible to confirm the extent to which we hold information falling within

the scope of your request. This is because conducting the relevant searches would breach the cost limit envisaged by section 12 of the FOIA. Section 12(2) of the FOIA states that a public authority is not obliged to confirm or deny if requested information is held if the estimated cost of establishing this would exceed the appropriate cost limit.

I have provided some more detail about why this is the case in this instance below, along with some advice about how a refreshed request, with a narrower scope, may elicit information which is of interest to you.

FOIA section 12

Section 12 of the FOIA makes clear that a public authority is not obliged to comply with an FOIA request if the authority estimates that the cost of complying with the request would exceed the 'appropriate limit'.

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 stipulates that the 'appropriate limit' for the ICO is £450. We have determined that £450 would equate to 18 hours work.

Under data protection legislation, individuals have the right to lodge a complaint with the ICO as the relevant supervisory authority in the UK. The details of these complaints, along with the details of thousands of other enquiries and concerns regarding the other laws we oversee, including requests for advice from individuals or organisations, and self-reported personal data breach cases, are processed within a casework management system.

An electronic record is created for every case, every complainant and every 'complained about' organisation. This is because part of our role is to improve the information rights practices of organisations by gathering and dealing with concerns raised by members of the public.

The system allows us to search for the cases we have dealt with in a number of different ways, such as by the unique reference number the case was given, the name of the person who contacted us, and the name of the body that has been complained about. We can also search for cases on the basis of the broad nature of the complaint, such as that it relates to a subject access request.

However it is not possible to search for cases according to subject matter to the specific level of detail that you have provided in your request, i.e. relating to fingerprint technology in schools. Information within the scope of questions 2 to 6 of your request may be held in the correspondence of data protection

complaint cases, advice cases, or personal data breach cases as well as potentially within other records maintained by other departments within the ICO.

As our casework management system doesn't support automated searches based on such criteria, to establish the information that we hold and which falls within the scope of request would require a manual search at the correspondence held on thousands of case files.

I have undertaken sample searches of the data that we hold relating to data protection complaints. It is possible to limit the search to cases concerning Data Controllers within the Education and Childcare sector, and to further limit this to sub-sectors which are types of schools (therefore excluding universities, child care providers etc), according to my searches, we receive around 400 data protection complaints about data controllers within these subsectors each year.

We can further search by the broad subject matter of the case such as that it concerned an Article 15 request or that it concerned Art 6- lawful processing, however I am of the view that it would not be possible to identify from these categories whether there was any discussion or advice given around fingerprint technology. This could form part of the subject matter of all types of complaints, and may have also been raised and discussed as secondary issue in the course of dealing with a complaint.

Additionally, these subsectors generate around over a thousand personal data breach reports each year, and this cannot be further narrowed down by subject matter. This means that if we were to search our case records for the past three years we would need to search the data held on over four thousand case records, and this does not include advice cases, which would also need to be searched along with records held by other departments around the ICO outside of our casework database.

Even if we only allowed 3 minutes to search each file, and some files would undoubtedly require longer than that, the time needed to complete these searches would be well in excess of the 18 hours which would accrue a charge of £450 or less, triggering the provisions of section 12 of the FOIA.

We should also advise that we would be unable to answer your first question in any case as we do not hold a list of schools using fingerprint technology. This is not something that we track or ask schools to notify us about, and we would only be aware that a school was using this technology if they had contacted us for advice about it, we had received a complaint or data breach report about it, or we had become aware of it in some other way through our regulatory work.

Advice and assistance

Due to the issues we have explained above regarding our case management system, we cannot advise you of a way to revise your request in order that we would be able to locate the information you are looking for within our casework files. In order not to breach the cost limit we would need to reduce the date range for the search, i.e., only cases closed within a certain period, to such a short period that it would not produce meaningful results and may not result in finding any relevant information at all.

Additionally, we are legally prevented from disclosing information obtained about organisations or individuals within the course of our regulatory work under s.132 Data Protection Act 2018 and s.44 FOIA without lawful authority, therefore we should make you aware that we would not be able to disclose much of this information to you, if found, without contacting the relevant Data Controller for consent to disclose it, and whether to give consent would be entirely up to them.

Given the difficulties with searching for this information, as well as the need to consult with organisations in order to disclose it, consideration would also be given as to whether the value to the public of the information derived from such searches is proportionate to the work involved to locate it.

You could limit your request to information held outside of our casework management system, i.e. information held by departments not dealing with day to day casework, then we would be able to search for this information without breaching the costs limit. A number of other departments within the ICO may have corresponded with schools about this issue on an advisory level or otherwise as part of our regulatory work and we would be able to determine what they hold without breaching the costs limit.

Please note however that we have not undertaken any of these searches at this stage and cannot advise as to what we may hold within the scope of this reworded request, if we do hold it. Please also be aware that in some cases the restriction in s.132 Data Protection Act 2018 and s.44 Freedom of Information Act 2000 may still apply, and again if we are required to consult with multiple organisations in order to comply with the request, we will need to consider whether the value to the public of the information requested is proportionate to the burden placed on our resources by complying with the request.

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 set out your rights. Our retention schedule can be found [here](#).

Yours sincerely



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