

31 May 2023

IC-230118-D2G8

Request

On 29 April 2023 you requested the following information about the ICO's investigation into Facewatch:

1) I would like to request any correspondence sent to Facewatch that contains the statement that the company is fully compliant with UK Data Protection law, or which sets out that position.

2) I would like to request any other correspondence which does not meet this definition but which sets out the Commissioner's view on Facewatch's overall compliance with the UK GDPR and Data Protection Act 2018.

Please note that if there is a single piece of correspondence or report which summarises that position, that's what I want. Otherwise, I would like the most recent correspondence with the company that sets out the Commissioner's view on their compliance.

3) Facewatch's "FULLY COMPLIANT" claim has been on their website for several weeks. I would like to request any information that indicates whether the Commissioner's staff have contacted Facewatch about this claim.

4) I would like to request any information about whether Facewatch have obtained the Commissioner's permission to use his corporate logo.

Your request has been handled under the Freedom of Information Act 2000 (the FOIA). As you are probably aware, this legislation provides public access to recorded information held by a public authority unless an appropriate exemption applies.

Response

I can confirm that we hold some information in scope of your request.

1) I would like to request any correspondence sent to Facewatch that contains the statement that the company is fully compliant with UK Data Protection law, or which sets out that position.

This information is not held.

2) I would like to request any other correspondence which does not meet this definition but which sets out the Commissioner's view on Facewatch's overall compliance with the UK GDPR and Data Protection Act 2018.

Please note that if there is a single piece of correspondence or report which summarises that position, that's what I want. Otherwise, I would like the most recent correspondence with the company that sets out the Commissioner's view on their compliance.

Please find attached our final outcome letter to Facewatch. Information that Facewatch provided to us in confidence has been withheld under section 44 of the FOIA, which is explained in further detail below.

3) Facewatch's "FULLY COMPLIANT" claim has been on their website for several weeks. I would like to request any information that indicates whether the Commissioner's staff have contacted Facewatch about this claim.

There was no information held at the time your request was made.

4) I would like to request any information about whether Facewatch have obtained the Commissioner's permission to use his corporate logo.

This information is not held.

Withheld information - FOI section 44 (& DPA s132)

The redacted information has been withheld under the provisions of section 44 of the FOIA which places prohibitions on disclosure. This exemption is an absolute exemption, which does not require a consideration of the public interest test of the type required by the qualified exemptions.

Section 44(1)(a) of the FOIA states;

'(1) Information is exempt information if its disclosure (otherwise than under this

Act) by the public authority holding it -

(a) is prohibited by or under any enactment'

The enactment in question is the Data Protection Act 2018 and specifically section 132(1) of part 5 of that Act. This states that:

"A person who is or has been the Commissioner, or a member of the Commissioner's staff or an agent of the Commissioner, must not disclose information which—

(a) has been obtained by, or provided to, the Commissioner in the course of, or for the purposes of, the discharging of the Commissioner's functions,

(b) relates to an identified or identifiable individual or business, and

(c) is not available to the public from other sources at the time of the disclosure and has not previously been available to the public from other sources,

unless the disclosure is made with lawful authority."

Section 132(2) lists the circumstances in which a disclosure can be made with lawful authority, however we find that none of them apply here. As a result the information is exempt under the FOIA and withheld from our response.

This concludes our response to your request.

FOI review procedure

If you are dissatisfied and wish to request a review of our decision or make a complaint about how your request has been handled you should write to the Information Access Team at the address below or e-mail icoaccessinformation@ico.org.uk.

Your request for internal review should be submitted to us within 40 working days of receipt by you of this response. Any such request received after this time will only be considered at the discretion of the Commissioner.

If having exhausted the review process you are not content that your request or review has been dealt with correctly, you have a further right of appeal to this office in our capacity as the statutory complaint handler under the legislation.

To make such an application, please write to our Customer Contact Team at the address given or visit our website if you wish to make a complaint under the FOIA.

Your information

Please note that our [Privacy notice](#) explains what we do with the personal data you provide to us and what your rights are. This includes entries regarding the specific purpose and legal basis for the ICO processing information that people that have provided us with, such as an [information requester](#).

The length of time we keep information is laid out in our retention schedule, which can be found [here](#).

Yours sincerely



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Planning Service
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