

17 July 2023

IC-239056-Y9N6

Request

You asked us:

"I am requesting copies of correspondence between the ICO and Facewatch, the facial recognition company, between 31st March and 16th June 2023. In particular, any correspondence relating to Facewatch's public framing of the ICO's investigation into their compliance with data protection law (reported here: <https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2023/03/balancing-people-s-privacy-rights-with-the-need-to-prevent-crime/>)"

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

Our response

I can confirm that we hold information within the scope of your request.

Please find attached copies of correspondence between the ICO and Facewatch between 31 March 2023 and 16 June 2023. Some information has been redacted for reasons explained below.

The correspondence in scope of your request includes a consultation between the ICO and Facewatch regarding a previous information request. (reference IC-230118-D2G8). That correspondence included a letter that was later published on our [disclosure log](#) with redactions. As the letter has already been published, we have chosen not to include it in this bundle. For clarity, we have indicated where the unredacted letter was attached.

FOIA section 40(2)

Some information has been redacted because it is third party personal data. It is exempt from disclosure under section 40(2) of the FOIA.

Disclosure of this data would break the first principle of data protection - that personal data is processed lawfully, fairly and in a transparent manner.

There is no strong legitimate interest that would override the prejudice that disclosure would cause to the rights and freedoms of the individuals concerned. So we are withholding the information under section 40(2) of the FOIA.

FOIA Section 44 and DPA section 132

Some information has been redacted because it has been withheld under section 44 of the FOIA. Section 44(1)(a) 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. Section 132(1) of part 5 of that Act 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 circumstances in which a disclosure can be made with lawful authority, however none of them apply in this case.

We hope this information has been useful to you.

This concludes our response to your 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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