

2 September 2024

IC-327861-X0Z6

## Request

On 22 August 2024 you submitted the following request:

*Please provide your response to parliament as described in <https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2023/12/ico-statement-in-response-to-parliamentarians-letter-on-facial-recognition-technology/>*

*Please also provide the number of live and concluded ICO investigations into use of live facial recognition within the retail sector since 1 April 2023.*

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

## Response

We hold information that falls under the scope of your request. However, we are refusing the request because to locate the information requested in entirety would exceed the cost limit set out by section 12 of the Freedom of Information Act 2000 (FOIA). This is due to the second point of your request. We have provided suggestions about how to refine your request under the Advice and assistance section below.

Section 12(2) of the FOIA states that a public authority is not obliged to confirm or deny the extent to which the requested information is held if the estimated cost of establishing this would exceed the appropriate cost 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.

We investigate thousands of cases that relate to the retail sector every year. This includes data protection complaints, data breaches and other matters relating to the legislation we regulate. This information is not fully keyword searchable, and we do not categorise cases on our case management systems as to whether or not they relate to 'live facial recognition', so to identify any relevant instances we would need to manually check the records for each case.

Assuming that it would only take two minutes to check each case we hold on our case management system (and in many cases it would take longer, depending on the complexity of the case) for the criteria specified, it would take over 33 hours just to check 1000 of these cases.

Therefore locating all the information in scope of this request would certainly exceed the 18 hours which would accrue a charge of £450 or less, triggering the provisions of section 12 of the FOIA. On this basis, we are refusing your request.

### **Advice and assistance**

We have published some information about our work in relation to facial recognition more broadly, for example our [opinion on the use of this technology in public places](#), [action we've taken in relation to specific instances](#) and [responses to previous FOI requests on this topic](#).

We also publish some information about complaints, investigations and other types of cases [here](#), and some older data is available on archived versions of our website [here](#). The data sets we publish provide examples of the criteria we can use to filter search results, for example, date reported, sector, legislation reason and outcome. With this in mind, you could consider focusing your request on a particular organisation, time period or case type, in order to bring it within the cost limit.

Alternatively, we could consider the first part of your request as a standalone request, or in conjunction with a refined version of the second part, as suggested above.

If you do decide to refine your request, please note that any request requiring us to manually search large numbers of records is likely to exceed the appropriate limit, and the accuracy of any such searches could not be guaranteed. Consideration can also be given as to whether the value to the public of any resulting information is proportionate to the effort to locate it, particularly given the issues regarding accuracy described.

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](#) on our website.

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 sets out [your rights](#). Our [Retention and Disposal Policy](#) details how long we keep information.

Yours sincerely



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