

2 October 2024

IC-331345-Y5N0

Request

"I would like to request access to the ICO's opinion on the FaceWatch case. Specifically, I am interested in how the ICO evaluated the legal basis for processing biometric data in this context."

We received your request on 9 September 2024.

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

Our response

We have interpreted your request to be for the outcome letter provided to Facewatch on conclusion of our investigation into their use of facial recognition technology. We hold this information.

Please find attached outcome letter to Facewatch.

Some information has been redacted because it was provided to us by Facewatch in confidence and we do not have lawful authority to disclose it. This is withheld under section 44 of the FOIA, which we explain in further detail below.

We also published a [blog post](#) explaining our decision that may be of interest to you.

Information withheld – FOIA section 44

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.

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.

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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