

30 September 2021

IC-127757-K6Q6

Request

"1) Please provide a list of educational establishments using facial recognition for students 18 and under.

2) Please provide your advice to companies which are providers to schools and schools/educational establishments wishing to use facial recognition 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 facial recognition 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 facial recognition hardware and software to be used in educational establishments."

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.

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 more narrow 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, 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 and address 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 subject access.

However it is not possible to search for details such as whether advice on facial recognition technology was sought or provided. Discussions such as these could be held either in complaint case files if the matter arose as part of dealing with a complaint or as part of an advice case, where an organisation approaches the ICO asking for guidance on a particular issue.

This is not information we would require for our business needs. As such, to establish the information that we hold and which falls within the scope of request would require a manual search at the correspondence on thousands of cases.

This search would be far in excess of the 18 hours which would accrue a charge of £450 or less, triggering the provisions of section 12 of the FOIA.

Advice and assistance

Firstly, with regards to point one, this not information that we would hold. We do not ask organisations to notify us if they are using facial recognition technology and would only be aware of this if an institution had contacted us about the matter, and would not keep a central list of those.

Secondly, if you haven't already looked at it, the Commissioner published a report of her opinion regarding the use of live facial recognition technology in public places which is available on our website [here](#), and this may be of interest to you.

Lastly if you would like to rephrase your request so that we would be able to answer it without hitting the costs limit in s.12, I would suggest that you consider perhaps providing the name or a short list of names of organisations that you are interested in and we could check cases we hold in connection with those organisations to determine if we have been in correspondence with them about facial recognition technology.

Alternatively you could limit your request to our policy work rather than advice work and we could check whether we have conducted any research or consultations specifically relating to facial recognition technology in educational establishments.

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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