



## **Freedom of Information request 1012-19**

As per: <https://twitter.com/jamesmullarkey/status/1149285512114507776> where a letter, dated 14 June 2019, from Nick Hurd MP states:

**"We know that LFR [live facial recognition] trials are intended to commence to find missing and vulnerable persons, which is a collaboration between the Home Office and police forces (Kent and West Midlands, British Transport Police)."**

- 1) Please advise when and where such trials will occur with British Transport Police, including whether they will be deployed on moving vehicles or not.**
- 2) Please advise if the cameras using LFR will be mobile, whether fixed or the existing camera systems will be used.**
- 3) Please provide any Data Protection Impact Assessment for these trials.**
- 4) Please advise when the decision for these trials to go ahead was.**
- 5) Please supply documents of any minutes of meetings, emails or any communications with the Home Office or other bodies, i.e. commercial entities (which may involved redaction) or for example the Surveillance Camera Commissioner, Biometric Commissioner, Law Enforcement Facial Images and New Biometric Oversight and Advisory board, etc, involved in these trials.**
- 6) Please advise the company who will be supplying the LFR hardware and software.**
- 7) Please supply or advise any research or work that has prompted the use of live facial recognition to find "missing and vulnerable persons".**

## **RESPONSE**

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at Section 1(1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at Section 1(1)(b) is to disclose information that has been confirmed as being held. Where exemptions are relied upon Section 17 of the FOIA requires that we provide the applicant with a notice which:

- a) states that fact
- b) specifies the exemption(s) in question and
- c) states (if that would not otherwise be apparent) why the exemption applies.

In relation to your particular request, the following exemption applies:

**Section 12(2) - Exemption where cost of compliance exceeds appropriate limit**

Section 12 of the FOIA provides an exemption from a public authority's obligation to comply with a request for information where the cost of compliance is estimated to exceed the *appropriate limit*.

In respect of question 5 which asks for any minutes of meetings or communications with external bodies relating to a trial of facial recognition technology, conducting a search for all the information requested would involve a trawl of thousands of British Transport Police email repositories, shared storage drives and local records. We have considered whether we may be able to conduct a proportionate search for information by restricting the request only to British Transport Police officers or staff most likely to have been involved in detailed discussions with external bodies on the subject of the use or trial of facial recognition technology (e.g. members of the CCTV department and senior officers and members of police staff who would be likely to have an involvement) rather than searching for information held by any employee. However, carrying out a scoping exercise with just one member of staff from British Transport Police's National Visual Forensics Centre resulted in over a thousand emails returned for a search of emails containing the phrase 'facial recognition'. These would each need to be individually assessed for whether they were in scope of the request made and contained any relevant information. This in itself would require in excess of 18 hours for just this one person.

It is estimated that the cost of providing you with the information is above the amount to which we are legally required to respond i.e. the cost of locating and retrieving the information exceeds the "appropriate level" as stated in the Freedom of Information (Fees and Appropriate Limit) Regulations 2004. In the case of the police service, the appropriate limit is £450 which has been calculated to equate to a total of 18 hours of work. If any part of the request exceeds the fees limit then Section 12 applies to the whole request.

This letter acts as a refusal notice under section 17(5) of the Freedom of Information Act 2000.

Although excess cost removes the force's obligations under the Freedom of Information Act, as a gesture of goodwill, we are able to provide in this case some contextual information outside of the Freedom of Information Act relating to this subject, which is clearly of high public interest at this present time. I trust this is helpful, but it does not affect our legal right to rely on the fees regulations for the remainder of your request.

British Transport Police understands that the letter cited in your request from the Policing Minister was referring to two different discussions. British Transport Police has not been involved in discussions relating to the use of retrospective facial recognition which we understand the Home Office has conducted with Kent Police and West Midlands Police.

British Transport Police has had discussions with the Home Office relating to the potential design of laboratory based trials using actors to collate data on the use and effectiveness of assisted facial recognition technology. If this is something that goes

ahead, we would be looking to conduct a full and transparent data protection impact assessment and liaise with all the appropriate regulatory bodies. However, no decision has yet been made.