

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 March 2019

Public Authority: Chief Constable of Surrey Police
Address: Surrey Police Headquarters
PO Box 101
Guildford
GU1 9PE

Decision (including any steps ordered)

1. The complainant requested information relating to facial recognition technology.
2. The Commissioner's decision is that Surrey Police has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires Surrey Police to take the following step to ensure compliance with the legislation.
 - Surrey Police must issue a substantive response to the request in accordance with its obligations under the FOIA.
4. Surrey Police must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 15 October 2018, the complainant wrote to Surrey Police and requested information in the following terms:

"I write to request information and records under the FOIA, regarding your police force's use of live, automated facial recognition technology.

1. Has your police force discussed using live facial recognition with external companies, or other police forces? If so, please provide details, including of any demonstrations.

2. Has your police force used live facial recognition? If so, please provide details including the time period of use, locations, and which uses have ceased or are continuing.

3. Has your force collaborated with any external companies in the course of their use of live facial recognition? If so, please provide details including the time period of use, locations, any costs involved, and which uses have ceased or are continuing.

3a. If the answer to 3 is yes, what was the protocol arranged for the event of a match alert?

3b. If the answer to 3 is yes, how many times was your force informed of a match alert? How many of those led to further police action being taken?

4. How many true positive matches were there during your force's use, or engagement with external use, of live facial recognition?

5. How many false positive matches were there during your force's use, or engagement with external use, of live facial recognition?

6. Does your force have any policy guidance relating to live facial recognition and/or the retention of images resulting from the use of live facial recognition?

6a. If yes, when were the policies created? (Please provide a copy of said policies)

6b. How many images captured in the course of using automated facial recognition technology have been retained for storage?

7. Has your force completed a privacy impact assessment in relation to live facial recognition technology? If so, please provide a copy.

8. Has your force scrutinised a privacy impact assessment conducted by any external companies operating live facial recognition with whom you have collaborated? If so, please describe when and provide a copy.

9. *Has your force shared facial images with external companies for the purposes of live facial recognition? If so please detail:*
- a. *which companies the images were shared with,*
 - b. *the number of images shared,*
 - c. *from which datasets the images were drawn,*
 - d. *a full list of purposes for which the images were shared,*
 - e. *the legal basis on which the images were shared,*
 - f. *and data security/management protocols around the handling of the shared data."*
6. Surrey Police acknowledged the request on 18 October 2018.
7. The complainant contacted Surrey Police to chase the outstanding response on 20 December 2018.

Scope of the case

8. The complainant contacted the Commissioner on 10 January 2019 to complain about Surrey Police's failure to respond to her information request.
9. On 24 January 2019 the Commissioner wrote to Surrey Police, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
10. Despite this intervention Surrey Police has failed to respond to the complainant.
11. The Commissioner has considered whether Surrey Police has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

12. Section 1(1) of the FOIA states that:

"Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him."*

13. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt."*
14. From the evidence provided to the Commissioner in this case, it is clear that Surrey Police did not deal with the request for information in accordance with the FOIA. The Commissioner finds that Surrey Police has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

Right of appeal

15. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

16. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Andrew White
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Cheshire
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