

## Reference: 2024-031

Thank you for your email in which you requested the following information under the Freedom of Information Act 2000 (FOIA):

**In a statement in response to recent reporting, the SFO confirmed it was informing defendants in all affected cases about issues with OpenText Axcelerate.**

- 1. Please confirm the number of defendants that have been informed and the number of cases affected.**
- 2. The SFO added it had deployed an effective solution. Please confirm the estimated cost of deploying this solution**
- 3. The reporting further suggests cases involving Autonomy Introspect are being reviewed. Please confirm the number of cases being reviewed.**
- 4. Please also provide copies of minutes of any meetings involving staff at either board or executive level from 1 January 2023 to 2 May 2024 that reference either OpenText Axcelerate or Autonomy Introspect, and any internal memos referencing the same.**

## Response

I can confirm that the Serious Fraud Office (SFO) holds information you have requested.

However, the specific information you have requested is exempt from release under section 31(1) of the FOIA.

Section 31(1)(b) and (c) provides that:

*Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice—*

- (b) the apprehension or prosecution of offenders,*
- (c) the administration of justice*

## How the exemption is engaged

As a law enforcement agency, the SFO holds highly sensitive information, which is of interest to others, including those we investigate. Releasing detailed information about the SFO's operational software systems and tools could therefore compromise our ability to protect SFO investigative material and information systems, thereby prejudicing the interests at (b) and (c) above.

## Public interest test

Section 31(1) is a qualified exemption and requires consideration of whether, in all the circumstances of the case, the public interest in exempting this data outweighs the public interest in disclosing it. More information about exemptions in general and the public interest test is available on the ICO's website at [www.ico.org.uk](http://www.ico.org.uk).

It is recognised that there is a general public interest in publicising information about the SFO, so that the public knows that serious fraud, bribery, and corruption are being investigated and prosecuted effectively, and so that the public can be reassured about the general conduct of our organisation and how public money is spent.

However, having considered the public interest in releasing this information, we consider that the stronger interest lies in maintaining these exemptions of the FOIA. It is essential that the SFO safeguard against the risk that information regarding our investigative and procedural systems could pose if revealed to the general public, thereby compromising the confidentiality of the SFO at pre-investigation, investigation, prosecution stages and beyond by releasing sensitive information. Given the highly sensitive nature of the information requested and the risks which releasing sensitive information about our processes poses, we deem the duty to safeguard against this risk as superseding the public interest.

Having considered the opposing arguments, I believe that the stronger public interest lies in exempting the information from release.

***Upon internal review, the following was provided:***

***Question 2***

*The only cost to the SFO of resolving matters relating to Axcelerate is the time spent by SFO staff; the SFO did not purchase a solution or use external support in the fix. It is not possible to disaggregate time spent on this work from other work relating to Axcelerate. As such, I can confirm that the SFO does not hold this information.*

***In a further letter, the following was provided:***

***Question 1***

*The first part of your question (the number of cases affected by issues with Axcelerate) remains exempt under section 31(1)(b) and (c), as per our letters of 30 May and 24 June. However, we can confirm that in response to the second part of your query, in general, the relevant case team will inform defendants who may be affected by these issues, therefore we do not hold a central figure.*

***Question 3***

*In relation to question three of your request, the SFO newly applies section 22(c) of FOIA, which provides: Information is exempt information if—*

- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),*
- (b) the information was already held with a view to such publication at the time when the request for information was made, and*
- (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).*

*In response to question three of the complainant's request, we now rely on section 22(c) of the FOIA. At the conclusion of our full review of cases potentially affected by the Autonomy issue, we plan to publish information on the scale of our review, alongside information on our findings, after we have informed any affected defendants. We believe this is the right approach to take as a responsible prosecutor.*

***Public interest test***

*Section 22(c) is a qualified exemption and is therefore subject to the public interest test. We recognise the public interest in publishing information about this live investigation into our historic cases. We understand the importance of transparency and publicising how the organisation is investigating how these software issues have affected our cases. The requested figure could be combined with other information in the public domain to calculate which cases are being investigated. While we do not think this in itself is against the public interest as the SFO have a duty to indicate to the public that we are taking this issue seriously, it would be unfair to the defendants in these historic cases which are under investigation, but who may not have yet been contacted, for us to release partial information is likely to lead to unnecessary concern. It could also lead to a delay in our internal investigations, whilst we respond to all those likely to contact us in the wake of reporting on this issue.*

*We find that it is in the public interest, therefore, to present this information in full at the end of the investigation. We expect to make further information public within coming months, as we are prioritising and progressing this work at speed. We expect that releasing this information in this way and at this time will provide the public the assurance that the SFO responded to this issue with a thorough internal investigation, and the information will accurately depict the extent of the issue rather than creating alarm and discomfort for individuals affected at this stage. It is for these reasons that we find that the public interest is in favour of exemption.*