

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 5 October 2021

**Public Authority:** Chief Constable of Northumbria Police  
**Address:** Northumbria Police Headquarters  
Middle Engine Lane  
Wallsend  
Tyne & Wear  
NE28 9NT

#### **Decision (including any steps ordered)**

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1. The complainant requested information about particular fraud reports and associated fraud charges. Northumbria Police refused to provide the requested information, citing section 12(1) of FOIA (cost of compliance), as to do so would exceed the appropriate cost and time limit. Although Northumbria Police revised its cost estimate during the course of the Commissioner's investigation and duly informed the complainant, it advised that the reduced estimate still exceeded the cost limit.
2. The Commissioner's decision is that Northumbria Police is not obliged to comply with the request under section 12(1) of FOIA. She also finds that Northumbria Police complied with its section 16 of FOIA obligations.
3. The Commissioner does not require Northumbria Police to take any steps to ensure compliance with the legislation.

#### **Background**

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4. The National Fraud Intelligence Bureau ('NFIB') is a police unit in the United Kingdom responsible for gathering and analysing intelligence relating to fraud and financially motivated cyber crime. The NFIB was created as part of the recommendations of the 2006 National Fraud Review, which also saw the formation of the National Fraud Authority. The NFIB was developed and is overseen by the City of London Police as part of its role as a national lead for economic crime investigation, and is funded by the Home Office.

## Request and response

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5. On 26 June 2021, the complainant wrote to Northumbria Police via the *WhatDoTheyKnow.com* website<sup>1</sup> and requested information in the following terms:

*"Request 1*

*For each month in the financial years 2019/20 and 2020/21, please provide the number of reports of fraud passed to you from the National Fraud Intelligence Bureau (NFIB) to investigate.*

*Request 2*

*Please provide the number of individuals charged with offences in connection with the reports identified in Request 1."*

6. Northumbria Police responded on 27 July 2021. It refused to provide the requested information citing section 12 (cost of compliance), advising that to respond for the year 2019/20 alone would involve manually searching approximately 1732 files. Northumbria Police offered advice and assistance in accordance with section 16 of FOIA as to what information could be provided within the cost limit.
7. The complainant requested an internal review on 31 July 2021, specifically querying whether the figure of 1732 was correct. Northumbria Police provided the outcome of its internal review on 5 August 2021. It upheld its original position and confirmed that the figure of 1732 was accurate.

## Scope of the case

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8. The complainant contacted the Commissioner on 7 August 2021 to complain about the way his request for information had been handled. He again challenged the number of files in scope of the request and questioned whether the City of London Police (see Background above) could provide Northumbria Police with the information it had said would entail a manual review of the 1732 files it had identified as falling in the scope of his request (see paragraph 27 of this notice).

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<sup>1</sup>[https://www.whatdotheyknow.com/request/national\\_fraud\\_intelligence\\_bure\\_28#incoming-1848994](https://www.whatdotheyknow.com/request/national_fraud_intelligence_bure_28#incoming-1848994)

9. As part of her investigation, the Commissioner asked Northumbria Police to explain how it had arrived at its original estimate of ten minutes to manually review each file in scope. For 2019/20 alone, Northumbria Police had said this would exceed 288 hours.
10. On 21 September 2021, Northumbria Police informed both the Commissioner and the complainant of its revised reduced cost estimate of 6.5 minutes per file, equating to a total of over 187 hours.
11. The Commissioner sought the view of the complainant on the revised estimate. The complainant did not respond.
12. During the latter stage of the investigation in response to the Commissioner's enquiry, Northumbria Police clarified that it had made a typographical error in its response to the Commissioner's enquiries. As opposed to stating how many case it had passed to NFIB, the response should have stated how many cases were passed to it by NFIB. Northumbria Police advised that this did not alter the number of files in scope which it had rechecked as a result of the Commissioner's query, explaining that the 1732 figure:

*"would not change, as this figure is gleaned from a crime code search for this particular crime (050/00) which draws all fraud crimes recorded by Northumbria Police. As advised earlier these include reports of fraud made directly to Northumbria Police via a variety of sources including victims and of course those reports of crimes of fraud that have been received via NFIB".*
13. The Commissioner has considered whether Northumbria Police Constabulary was entitled to rely on section 12(1) to refuse to comply with the request.
14. She has also considered whether Northumbria Police has fulfilled its obligations under section 16 of FOIA.

## **Reasons for decision**

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### **Section 12(1) – cost of compliance exceeds the appropriate limit**

15. Section 1(1) of FOIA states that:

*"(1) 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."*

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

*"Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit."*

17. The Fees Regulations set the appropriate limit at £450 for Northumbria Police; they also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that the appropriate limit for Northumbria Police equates to 18 hours.

18. In estimating whether complying with a request would exceed the appropriate limit, regulation 4(3) states that an authority can only take into account the costs it reasonably expects to incur in:

- a. determining whether it holds the information;
- b. locating the information, or a document containing it;
- c. retrieving the information, or a document containing it; and
- d. extracting the information from a document containing it.

*Can all parts of the request be aggregated?*

19. Section 12(4) of FOIA can be engaged where one person makes two or more requests. It allows for the aggregation of these requests for the purpose of calculating costs in circumstances which are set out in Regulation 5 of the Fees Regulations. This Regulation provides that multiple requests can be aggregated where two or more requests relate, to any extent, to the same or similar information.

20. The Commissioner asked Northumbria Police whether it had aggregated the requests as part of her investigation; it said it had not.

21. Given the effect of section 12(4), the Commissioner first considered whether the complainant's request of 26 June 2021 constituted a single request with multiple elements or multiple requests. The Information Tribunal considered a similar issue in *Fitzsimmons v ICO & Department for Culture Media and Sport* [EA/2007/0124]<sup>2</sup>.

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<sup>2</sup><http://informationrights.decisions.tribunals.gov.uk//DBFiles/Decision/i242/Fitzsimmons.pdf>

22. Taking the Tribunal's decision in Fitzsimmons into consideration, the Commissioner would characterise the complainant's request as containing multiple requests within a single item of correspondence.
23. Having established that the complainant has made multiple requests in a single request, the Commissioner went on to consider whether those requests could be aggregated for the purpose of calculating the cost of compliance. The Commissioner notes that both parts of the request relate to incidences of fraud reported to the NFIB and passed on to Northumbria Police to investigate and any associated charges for these. The Commissioner has therefore concluded that it is reasonable for them to be aggregated for the purpose of calculating the cost of compliance because they follow an overarching theme.
24. Having reached this conclusion, the Commissioner will next consider the application of section 12(1). In determining whether Northumbria Police has correctly applied section 12 of FOIA in this case, the Commissioner has considered Northumbria Police's rationale provided to her during the investigation.

*Application of section 12(1)*

25. Northumbria Police told the Commissioner the following:

*"I note that the requestor responded on the 31<sup>st</sup> July 2021 to advise that he had been informed by the City of London Police that there had been 378 crimes of fraud passed to Northumbria Police via the National Fraud Intelligence Bureau (NFIB) to investigate.*

*Northumbria Police does not agree with the facts stated by the Complainant in that there have been 378 crimes referred. However, what I can confirm is that the crime code used to search for the particular crime (050/00) draws all fraud crimes within a specified timescale recorded by Northumbria Police. These include reports of fraud made directly to Northumbria Police via a variety of sources including victims and of course those reports of crimes of fraud that have been received via NFIB.*

*Our data extract for 2019/20 detailed 1,732 crimes for this code recorded by Northumbria Police."*

26. Towards the end of the Commissioner's investigation, Northumbria Police clarified that it was unable to confirm whether the complainant's cited figure of 378 cases referred to it by NFIB was correct without a manual search of the 1732 records in scope. It confirmed:

*"There is no separate flag, marker or similar, within a record to state that it had been referred to ourselves via the NFIB.*

*We are unable to separate out the NFIB referred cases from those referred to you directly, without conducting a manual search, as outlined previously.*

*The NFIB forward cases to our "Vault", which is the portal created by NFIB that they use to disseminate fraud and cyber cases for investigation. All Home Office Police Forces have access to the Vault so that they can access the disseminations relevant to their force area."*

27. Northumbria Police told the Commissioner that:

*"In order to extricate those that were reported by [sic] Northumbria Police, requires manual assessment of each of the electronic records to determine the source of the report and to answer question 2, the numbers from those report who had been charged with offences in connection with fraud.*

*In order to determine those reports made by NFIB, I am required to use the information obtained and access each record held on the Northumbria Police Local Information System using the individual Crime Number. I then have to search the crime screen to identify the source of the crime and if this is not clear, I am required to exit this part of the system to assess the Force Wide Incident Record to determine who referred the matter to Northumbria Police.*

*Upon identifying that the referral was made by NFIB, in order to assess whether an individual was charged with an offence associated, I have to exit the crime screen and assess the disposal screen information. That information does not contain the details of the numbers of those charged, it allows me to see if the matter has been formally closed. I am then required to assess the individuals personal records who are associated and assess from their arrest screens if they have indeed been charged with a related fraud offence."*

28. In relation to the cost estimate, Northumbria Police said:

*"I have personally undertaken an exercise to determine the time taken to extract the information and I can confirm that the estimate of 10 minutes per record is not correct. However, the search to identify the data must be broken into two elements:*

- *Searching 1732 records to identify the source and of those records identifying those where the source was NFIB*

- *Searching those NFIB source records to identify whether an individual or individuals were charged with the offence.”*

29. Northumbria Police said it had undertaken a sampling exercise of ten records from its data extract. Identifying the source of the report resulted in the following:

Record 1	3 minutes
Record 2	3 minutes
Record 3	3 minutes
Record 4	3 minutes
Record 5	3 minutes
Record 6	4 minutes (the force wide incident record required interrogation to identify the source)
Record 7	4 minutes (as per Record 6)
Record 8	3 minutes
Record 9	3 minutes
Record 10	3 minutes
Total	32 minutes
Average	3.2 minutes per record

Time it would take to interrogate 1732 records to identify the source equates to 92.37 hours.

30. Of those ten records, Northumbria Police said it had taken the following time to identify whether individuals had been charged with fraud:

Record 1	3 minutes
Record 2	3 minutes
Record 3	3 minutes
Record 4	3 minutes
Record 5	4 minutes (there was more than one charge)
Record 6	3 minutes
Record 7	3 minutes
Record 8	5 minutes (more than one individual was associated with the offence and multiple charges)
Record 9	3 minutes
Record 10	3 minutes
Total	33 minutes
Average	3.3 minutes per record

31. Northumbria Police has advised that it cannot isolate the crimes referred to it by NFIB from those it has received directly. However, were it able to do so, and were 378 the correct figure, based on its sampling

exercise it would take a total of 20.79 hours to deal with the second part of the request; this would exceed the appropriate limit in itself.

### *Conclusion*

32. From the explanation provided, the Commissioner accepts that Northumbria Police would have to both interrogate its electronic records and then carry out a manual assessment in order to respond to part 1 of the complainant's request.
33. Were Northumbria Police able to isolate the 378 crimes which the complainant believes the NFIB passed to it, the work required to comply with the latter part of the request would exceed the cost limit on its own.
34. The Commissioner has concluded that Northumbria Police's revised estimate is reasonable and that it was entitled to rely on section 12 for this request.

### **Section 16 – duty to provide advice and assistance**

35. Section 16 of FOIA states:

*"(1) It shall be the duty of a public authority to provide advice and assistance, so far as would be reasonable to expect the authority to do so, to persons to propose to make, or have made, requests for information to it.*

*"(2) Any public authority which, in relation to the provision of advice or assistance in any case, conforms with the code of practice under section 45 is to be taken to comply with the duty imposed by subsection (1) in relation to that case."*

36. The Commissioner's view is that, where a public authority refuses a request under section 12(1) of FOIA, section 16(1) creates an obligation to provide advice and assistance on how the scope of the request could be refined or reduced to avoid exceeding the appropriate limit.
37. In its response to the request of 27 July 2021, Northumbria Police advised the complainant:

*"When applying Section 12 exemption our duty to assist under Section 16 of the Act would normally entail that we contact you to determine whether it is possible to refine the scope of your request to bring it within the cost limits. Therefore, in order to provide you with some assistance, under Section 16 of the Freedom of Information Act 2000, an initial assessment of the information that may be provided within the time constraints would be the number of disseminations for 2020/21 and the*



*number of these cases which have resulted in a charge/summons outcome. If this would be useful, you may wish to refine and resubmit your request accordingly."*

*Conclusion*

38. The Commissioner is satisfied that Northumbria Police complied with its section 16 obligations in its handling of this request.

## Right of appeal

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39. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

40. 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.
41. 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 .....**

**Carolyn Howes**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**