

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 13 June 2016

**Public Authority:** Chief Constable of Staffordshire Police  
**Address:** Police Headquarters  
PO Box 3167  
Stafford  
ST16 9JZ

#### Decision (including any steps ordered)

---

1. The complainant requested information relating to police injury pensions. Staffordshire Police refused this request on cost grounds under section 12(1) of the FOIA.
2. The Commissioner's decision is that Staffordshire Police cited section 12(1) correctly so it was not obliged to comply with the request.

#### Request and response

---

3. On 16 October 2015 the complainant wrote to Staffordshire Police and requested information in the following terms:

*"(1) What was the total number, as at 31 March 2015, of former police officers in receipt of injury awards from Staffordshire Police Authority / Staffordshire Police Pension authority in accordance with police pension and police injury benefit regulations?"*

*"(2) What was the total number of former police officers in receipt of injury awards from Staffordshire Police Authority Staffordshire Police Pension authority in accordance with police pension and police injury benefit regulations in each of the 4 bands Band 1-Band 4 as at 31 March 2014 before pension administration was outsourced?"*

*"(3) How many reviews of injury awards in accordance with police pension and police injury benefit regulations were conducted by Staffordshire Police Authority / Staffordshire Police Pension authority,*

*broken down by financial year, in the years 2010-11, 2011-12, 2012-13, 2014-15?*

*(4) What attempts have been made in light of FOI 5831 and 5861, to ascertain from your outsourced pension provider how readily retrievable the information [is] relating to the total number of former police officers in receipt of injury awards from Staffordshire Police Authority / Staffordshire Police Pension authority in accordance with police pension and police injury benefit regulations in each of the 4 bands Band 1 - Band 4?*

*(5) Please provide details of the dates the attempts were made?*

*(6) Please provide broken down by banding the total number of former police officers in receipt of injury awards from Staffordshire Police Authority / Staffordshire Police Pension authority in accordance with police pension and police injury benefit regulations in each of the 4 bands Band 1 - Band 4?"*

4. Staffordshire Police responded on 2 November 2015 and provided answers to questions (1), (4) and (5). In response to requests (2), (3) and (6), the complainant was advised that this information was not held as pension provision had been outsourced to a contractor.
5. The complainant responded on 9 November 2015 and requested an internal review. Staffordshire Police responded with the outcome of the review on 21 December 2015. Some further information was disclosed that was relevant to question (3), but the response in relation to requests (2) and (6) was upheld.

## **Scope of the case**

---

6. The complainant contacted the Commissioner on 22 December 2015 to complain about the refusal of his information request. The complainant indicated that he did not agree with the position of Staffordshire Police that some of the information he had requested was not held.
7. At the outset of his investigation, the Commissioner advised Staffordshire Police that it was not satisfactory to state that information is not held on the basis that this information had been provided to a contractor. Staffordshire Police was instead advised that it should consider whether the information provided to the pensions contractor was held on its behalf. If it was, this would indicate that this information was held by Staffordshire Police for the purposes of the FOIA, in accordance with section 3(2)(b).

8. Staffordshire Police responded confirming that its position on the complainant's request had changed and that it now accepted that the information requested in questions (2) and (6) was held by the pensions contractor on its behalf. However, its position was now that to disclose that information would exceed the cost limit and so it refused those parts of the request under section 12(1) of the FOIA.
9. Staffordshire Police wrote to the complainant to explain this change in position. It also at that stage confirmed that it had disclosed to the complainant all information it held within the scope of question (3).
10. The complainant subsequently confirmed that he wished the Commissioner to consider whether Staffordshire Police was correct to refuse parts (2) and (6) on costs grounds. The following analysis therefore covers whether compliance with parts (2) and (6) would exceed the cost limit.

## **Reasons for decision**

---

### **Section 12**

11. Section 12(1) provides that a public authority is not obliged to comply with a request where it estimates that the cost of doing so would exceed the appropriate limit, which for Staffordshire Police is £450. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the "fees regulations") provide that the cost of a request must be calculated at the rate of £25 per hour, providing an effective time limit of 18 hours. The fees regulations also specify the tasks that can be taken into account when forming a cost estimate as follows:
  - Determining whether the requested information is held.
  - Locating the information, or a document which may contain the information.
  - Retrieving the information, or a document which may contain the information.
  - Extracting the information from a document containing it.
12. A public authority is required to estimate the cost of a request, rather than form an exact calculation. The task for the Commissioner here is to reach a conclusion as to whether the cost estimate made by Staffordshire Police was reasonable; if it estimated reasonably that the

cost of compliance would exceed the limit of £450, section 12(1) applied and it was not obliged to comply with the FOIA.

13. Turning to the explanation given by Staffordshire Police of its cost estimate, it stated that the database that records injury pensions does have a "banding" field, which would suggest that the requested information could be easily extracted from this database. However, it also stated that this field had been completed in only a minority of cases. In relation to the minority of cases where the banding information was recorded, the complainant was supplied with the requested information.
14. In relation to the remainder of cases, Staffordshire Police stated that it would be necessary to review the scanned documents relating to each recipient of an injury pension to extract the requested information. It stated that there were a total of 302 sets of documents, each relating to an individual in receipt of an injury pension, that it would be necessary to review in order to identify the banding of that individual's injury pension. It stated that it had carried out a sample search of 11 sets of documents and that extracting the requested information had taken an average of 13 minutes per case. Based on this sample search, it estimated that compliance with the request would take a total of approximately 65 hours.
15. The issue of whether there may be an alternative, swifter means of complying with the request was also raised with Staffordshire Police. Whilst doing so, it was noted that it appeared somewhat surprising that it did not maintain an easily accessible record of the banding of injury pensions that it funds. In response to this question, Staffordshire Police stated specifically that "*there is no alternative to retrieve the requested information in a less time consuming method*". It stated that it is not under a statutory obligation to record the numbers on each injury pension banding. It stated that, should a situation arise in which it was necessary to establish what banding an individual recipient of an injury pension was on, it would take the time to do so.
16. The issues for the Commissioner are whether he accepts the estimate given by Staffordshire Police for the method of complying with the request that it described, and whether he accepts that there is no quicker method by which Staffordshire Police could comply with the request.
17. On the issue of the searches described by Staffordshire Police, he notes that Staffordshire Police stated that it does have a field on its database for recording the banding of an injury pension. The complainant may argue that it should have been expected that that field would have been completed and that, as a result, it would have been a simple task to

comply with his request. The Commissioner, however, has no evidence to dispute the representations from Staffordshire Police that this field had not been completed. Therefore, he accepts that it would be necessary to undertake the search described by Staffordshire Police in order to extract the requested information from its database.

18. As to whether he accepts that the estimate of the time that this search would take was reasonable, he notes that this was based on a sample search of a number of sets of documents. This sample search produced an average of 13 minutes per file. The Commissioner's view is that undertaking a sample search is an appropriate approach to take to forming a cost estimate and he has no basis on which to dispute the figure of 302 sets of documents that it would be necessary to search. Having accepted those points, it is also the case that even if the estimate per set of documents was to be reduced considerably from the average of 13 minutes, the total time taken would still be well in excess of the cost limit. The Commissioner therefore accepts that Staffordshire Police estimated reasonably that complying with these parts of the request would exceed the cost limit.
19. The remaining question is whether there are any grounds to dispute that it was necessary to undertake this process in order to comply with the remaining parts of the request. As noted above, the issue of whether there may be an alternative, less time consuming method to comply with the request was raised with Staffordshire Police. The response from Staffordshire Police on this point was that there was no such alternative method and there is no evidence available to the Commissioner that suggests otherwise.
20. For these reasons, the Commissioner accepts that it was reasonable for Staffordshire Police to estimate that the cost of complying with parts (2) and (6) of the complainant's information request would exceed the limit of £450. Section 12(1) therefore applied and Staffordshire Police was not obliged to comply with the complainant's information request.

## Section 16

21. Section 16(1) of the FOIA provides that all public authorities are under a duty to provide advice and assistance to any person who has made or who intends to make an information request to it. The Commissioner's published guidance on section 12<sup>1</sup> sets out the following minimum

---

<sup>1</sup> [https://ico.org.uk/media/1199/costs\\_of\\_compliance\\_exceeds\\_appropriate\\_limit.pdf](https://ico.org.uk/media/1199/costs_of_compliance_exceeds_appropriate_limit.pdf)

advice and assistance that a public authority should provide to a requester when refusing a request on cost grounds:

- either indicate if it is not able to provide any information at all within the appropriate limit; or
- provide an indication of what information could be provided within the appropriate limit; and
- provide advice and assistance to enable the requester to make a refined request.

22. In this case Staffordshire Police addressed its section 16(1) duty by stating that it was unable to provide advice on how the request could be refined to bring it within the cost limit. The Commissioner accepts that in so doing Staffordshire Police met the minimum requirement for advice and assistance and so finds no breach of section 16(1) in this case.

### **Other matters**

---

23. As recorded above, the original position of Staffordshire Police was that it did not hold the requested information on the basis that it had been passed to the organisation to which its pensions provision has been outsourced. In cases where recorded information relating to a service that has been outsourced is requested, Staffordshire Police should bear in mind section 3 of the FOIA and consider whether the requested information may be held elsewhere on its behalf. In such cases, it will not be appropriate to respond to the request by stating that the requested information is not held.

## Right of appeal

---

24. 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](mailto:GRC@hmcts.gsi.gov.uk)

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

25. 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.
26. 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 .....**

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