

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

### **Decision notice**

**Date:** 5 March 2019

**Public Authority:** Derby City Council  
**Address:** The Council House  
Corporation Street  
Derby  
DE1 2FS

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

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1. The complainant has requested information with regards to child sexual exploitation. Following clarification Derby City Council (the council) provided an initial response. However, the complainant did not consider this response fulfilled his request. During the internal review, the council applied section 12 of the FOIA as it considered to provide the information would be over the appropriate limit.
2. The Commissioner's decision is that section 12 of the FOIA is engaged and that the council was not required to provide advice and assistance, under section 16 of the FOIA, as it was found that the request could not be sufficiently refined.
3. The Commissioner does not require the council to take any steps.

## Request and response

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4. On 1 May 2018 the complainant made the following information request to the council:

*"The information request (emails, faxes, letters etc) that I am making referencing to will be anything about the CSE and grooming gangs over the last 10 years in Derby between Derby Council and the Home Office, Derby Council and the local social services, Derby Council and local public schools, Derby Council and Barnado's (charity) also the NSPCC, finally – Derby Council and [name redacted] MP, Dame [name redacted], [name redacted], [name redacted], [name redacted], [name redacted] plus members of parliament before 2015."*

5. The council requested clarification of the request on the 3 May 2018 asking:

*"What do you mean by grooming? For example, is it about 'sexual' grooming?"*

*Does the grooming relate to children under 16 years old?*

*By grooming gang, do you mean 'Adults' or 'Children'. For example, a gang made up of adults (aged 18+) grooming children (under 16 years old).*

*Does it relate to a specific area of the city? If yes, please state the specific area of the city.*

*What specific year does the request cover – 2016 only? Please note that Section 12: Exceeds appropriate limit exemption could apply if we need to search through thousands of records/emails going back over the last 10 years."*

6. The complainant provided its clarification on the same day:

*"1. Instead of looking for 'grooming' or 'grooming gangs' - both of these fall under **Child Sexual Exploitation**, this involves grooming young girls, giving them alcohol/drugs in some cases, then sexually assaulting them or even rape, also results in passing girls over to another individual or group which results in sexual assault and/or rape. (RE: [name redacted] case in Rotherham and this case in Derby which I'm sure you are already aware of [website link redacted])"*

- 2. Correct - referring to cases under the age of 16.*
- 3. Correct - adults grooming children based on age (adults 18+).*
- 4. No - it relates to the City of Derby.*
- 5. Considering the time issue - I would like it to cover only from **2008 to 2012.**"*
7. Following this clarification, the council provided its response on the 1 June 2018. It advised of two operations that took place in 2016, including the number of perpetrators and convictions and advised no other information was held to the rest of the revised request.
8. On the same day, the complainant requested an internal review as he did not consider it fulfilled his request. He had not received any emails/ letter/faxes or other communication between the council and the mentioned bodies in his request, between the years 2008-2012. The council had only provided him with a few paragraphs of summaries regarding 2016.
9. The complainant stated that no information had been provided for 2008 – 2012. He also asked that the council clarify, in relation to his original request relating to the last 10 years, if the council only holds the two cases in 2016, why was he not provided with the communications he asked for?
10. The council provided its internal review response on the 12 July 2018. After reconsidering the request, it advised that it did hold more information but applied section 12 of the FOIA to refuse to respond to the timeframes of 2008 to 2012, as it considered to do so, for any of the years, would exceed the appropriate limit.

### **Scope of the case**

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11. The complainant contacted the Commissioner on 25 July 2018 to complain about his request being refused.
12. The Commissioner considers the scope of the case is to determine whether the council can rely on section 12 of the FOIA to refuse the request.

## Reasons for decision

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### Section 12 of the FOIA – Appropriate Limit

13. Section 12 of the FOIA states that a public authority does not have to comply with a request for information if it estimates that the cost of complying with the request would exceed the appropriate limit.
14. The Freedom of Information and Data Protection (Appropriate Limit and Fees) regulations 2004 (“the Fees Regulations”) sets the appropriate limit at £450 for the council.
15. A public authority can charge £25 per hour of staff time for work undertaken to comply with a request in accordance with the appropriate limit set out above. This equates to 18 hours of officer time. If a public authority estimates that complying with a request may cost more than the cost limit, it can consider time taken in:
  - a) Determining whether it holds the information;
  - b) Locating the information of a document which may contain the information, and
  - c) Extracting the information from a document containing it.
16. In determining whether the council has correctly applied section 12 of the FOIA in this case, the Commissioner asked the council, with reference to the four activities above, to provide a detailed estimate of the time/cost it would take for it to provide the information, to clarify whether a sampling exercise has been undertaken and confirm that the estimate has been based upon the quickest method for gathering the information.
17. The council has responded to the Commissioner’s enquiries explaining that it does hold information in relation to the request and at the time of the request, all records were paper based but it has since scanned all paper records and so they are now held electronically.
18. The council has advised the Commissioner that there are 105 case investigation files and within each file there are up to 280 individual records (equating up to 29,400 individual records to be searched for information falling within the scope of the request).
19. The council has told the Commissioner that it applied the exemption because thousands of individual records would need to be searched

which include hand written notes, typed case notes, minutes, reports, strategy meeting emails, newspaper cuttings and more.

20. As these records vary in size and because the complainant is requiring correspondence between the council and specified people and organisations/ public authorities, it has estimated that it would take anywhere between 5 and 20 minutes to review each record in order to locate any relevant information from them.
21. The council has advised the Commissioner that to search just 1000 of these records would therefore take it between 83 and 333 hours of officer time. To search up to 29,400 records would, obviously, take longer.
22. The council has told the Commissioner that, once located, it would then require additional time to extract the relevant information, which could take up to five minutes or more depending on how much relevant information is located. The council states it is difficult therefore to estimate how long this process would take.
23. The council states that even though held electronically, an officer would be required to search all the records to locate the required information. It has told the Commissioner that it has performed keyword searches and only a small number of results were returned and the council knows there is more information held within the files.
24. For example, the council has stated to the Commissioner that a keyword search for 'grooming gangs' returned no results and a key word search for CSE (Child Sexual Exploitation) only returned three records. The council states that it knows this is inaccurate.
25. The council has told the Commissioner that it contacted its Head of Service for Children's Quality Assurance, Children's Integrated Services, People Services Department in establishing whether the information could be provided. It has also confirmed that an officer manually sifting through the electronically held records is the quickest method as the keyword search does not provide accurate results.
26. The council has also advised the Commissioner that it would not be able to sort the information by years as the records are not saved this way, they are saved collectively in their files which span over different years. So the council would not be able to sort the information in to the specified years.
27. From the amount of information held and time the council state it would take to review the records, the Commissioner can see that it would take

the council excessively over the appropriate limit of 18 hours. Even if the council were able to review each record within 1 minute this would still take over 29,000 minutes (483 hours) of officer time.

28. As it has confirmed that an officer would be required to manually sift through the information in order to locate and extract the information from its electronically held files it is difficult to see how the council could return the results faster in order to come under the appropriate limit.
29. In order for the council to obtain the specific information requested, it would need to potentially review each of the 29,000 plus records within 6 seconds. The Commissioner does not consider this would be at all achievable.
30. On consideration of the above, the Commissioner is satisfied that in order for the council to provide the information, it would take over the appropriate limit of 18 hours of officer time and therefore finds that section 12 of the FOIA is engaged in this case.

### **Section 16 of the FOIA – Advice and Assistance**

31. Section 16 of the FOIA imposes an obligation on public authorities to provide advice and assistance to a person making a request, so far as it is reasonable to do so. Section 16(2) states that a public authority is to be taken to have complied with its section 16 duty in any particular case if it has conformed with the provisions in section 45 of the Code of Practice<sup>1</sup> in relation to the provision of advice and assistance.
32. Paragraph 14 of Section 45 of the Code of Practice states that where a public authority is not obliged to comply with a request because it would exceed the appropriate limit to do so, then it:

*"...should consider providing an indication of what, if any, information could be provided within the cost ceiling. The authority should also consider advising the applicant that by reforming or refocusing their request, information may be able to be supplied for a lower, or no, fee."*

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/235286/0033.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/235286/0033.pdf)

33. The council has explained to the Commissioner that it is unable to provide advice and assistance in how the request could be refined as even changing the timeframe would still require it to search through the records.
34. The council has told the Commissioner that this is because the records within the investigation files cross over the different years spanning from 2008 to 2016. So even if the request was reduced to one of the years, it states it would still need to review all of the records in order to try to identify the time periods for each of them. This is because the records are not saved by the year they were created, but saved collectively in their investigation files.
35. On review of what the council has told the Commissioner, if the timeframe was reduced even to one year, it would appear that the council would still need to review each record it holds in order to identify what year it was created, due to the way the information is recorded.
36. The Commissioner is therefore satisfied that the council is unable to provide advice and assistance to the complainant for him to be able to refine his request and therefore there is no breach of section 16 of the FOIA.

## Right of appeal

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

38. 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.
39. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**