

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 July 2022

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

Decision (including any steps ordered)

1. The complainant requested information from Northumbria Police about the classification of crimes and crime numbers associated with an incident number. Northumbria Police refused to comply with the request citing section 12(1) (cost limit) of FOIA.
2. The Commissioner's decision is that Northumbria Police was entitled to refuse to comply with the request in accordance with section 12(1) of FOIA. He also finds that Northumbria Police met its obligation under section 16(1) of FOIA to offer advice and assistance. The Commissioner does not require Northumbria Police to take any steps to ensure compliance with the legislation.

Request and response

3. On 20 November 2021, the complainant wrote to Northumbria Police and requested information in the following terms:

"Please send me the information held, this regarding Northumbria Police involvement regarding the following matters:

- i) FWIN 282 01/06/2020 –

(a) With regards to this Northumbria Police incident number, please supply any associated crime numbers recorded against this reference and supply the classification of the crime or crimes that were recorded and the recorded outcomes.

(b) Could you please confirm Northumbria Police's recorded outcome for the incident and/or recorded crimes.

ii) Police Investigations Involving- the North East Ambulance Service NHS Foundation Trust –

(a) Provide the total number of incidents/crimes, whereby Northumbria Police, have investigated the North East Ambulance Service NHS Foundation Trust or any of its employee's.

(b) If any such incidents or crimes are recorded, could you provide a breakdown of the type of incident and/or crime type recorded and the final outcome of these matters.

I would like the above information to be provided to me as electronic copies, via email, either in word or PDF format."

4. Northumbria Police responded on 17 December 2021 stating that it held the requested information "in part" but refused to provide the information citing section 12(1) of FOIA.
5. On 17 December 2021, the complainant wrote to Northumbria Police to request an internal review.
6. Following an internal review, Northumbria Police wrote to the complainant on 3 February 2022. Northumbria Police maintained its reliance on section 12(1) of the FOIA.

Scope of the case

7. The complainant contacted the Commissioner on 5 February 2022 to complain about the way their request for information had been handled. The complainant disagrees with Northumbria Police's application of section 12(1) of FOIA.
8. The scope of the following analysis is to determine whether Northumbria Police was entitled to rely on section 12(1) of FOIA in this case. The Commissioner has also considered whether Northumbria Police met its obligation to offer advice and assistance, under section 16.

Reasons for decision

Section 12 – cost of compliance

9. Section 12(1) of FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the “appropriate limit” as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (“the Fees Regulations”).
10. Section 12(2) of FOIA states that subsection (1) does not exempt the public authority from the obligation to comply with paragraph (a) of section 1(1) (the duty to inform an applicant whether it holds information of the description specified in the request) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit. Northumbria Police relied on section 12(1) in this case.
11. The appropriate limit is set in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 at £600 for central government, legislative bodies and the armed forces and at £450 for all other public authorities. The appropriate limit for Northumbria Police is £450.
12. The Fees Regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that section 12(1) effectively imposes a time limit of 18 hours for Northumbria Police.
13. Regulation 4(3) of the Fees Regulations states that a public authority can only take into account the cost it reasonably expects to incur in carrying out the following permitted activities in complying with the request:
 - determining whether the information is held;
 - locating the information, or a document which may contain it;
 - retrieving the information, or a document which may contain it; and
 - extracting the information from a document containing it.
14. A public authority does not have to make a precise calculation of the costs of complying with a request; instead, only an estimate is required. However, it must be a reasonable estimate. In accordance with the First-Tier Tribunal decision in the case of *Randall v IC & Medicines and Healthcare Products Regulatory Agency EA/20017/00041*, the Commissioner considers that any estimate must be “sensible, realistic

and supported by cogent evidence". The task for the Commissioner in a section 12 matter is to determine whether the public authority made a reasonable estimate of the cost of complying with the request.

15. Section 12 is not subject to a public interest test; if complying with the request would exceed the cost limit then there is no requirement under FOIA to consider whether there is a public interest in the disclosure of the information.
16. Where a public authority claims that section 12 of FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of FOIA.

Northumbria Police's position

17. In its internal review response, Northumbria Police confirmed that it held some information within the scope of the request but that having conducted initial searches, the amount of time it would take to locate, retrieve and extract the information would exceed the cost limit.
18. Northumbria Police explained that from its systems it is not able to extract the level of detail that the request requires solely by conducting automated searches because the information held does not record employer details in any field that it could query. Northumbria Police explained that it cannot check job titles to confirm the employer name even if this information is captured in crime detail records. Therefore, for Northumbria Police to be able to meet with the full scope of the request it would need to manually access and review each crime incident.
19. Northumbria Police stated the number of crimes recorded between January 2016 and November 2021 was in excess of 838,700 and to review each one would take considerable time, taking 3 minutes per record.
20. Northumbria Police explained that it would exceed 41935 hours at 3 minutes per record to locate the requested information and review each record.
21. Northumbria Police explained that it could not provide any reasonable advice and assistance in order to refine the scope of the request to bring it within the cost limit.

Complainant's position

22. The complainant does not dispute the number of records within the scope of the information request. However, the complainant believes

Northumbria Police should be able to use computer software to search for the information and suggests that a manual search is not required. It is the complainant's belief that all police forces use computer systems to record the information and "users are then able, to search the said systems, using information to retrieve crime information easily and without the need for a manual trawl. The systems are such that differing parameters can be changed easily, to manipulate the database to return results accordingly".

The Commissioner's position

23. The Commissioner considers Northumbria Police's explanation of its estimate of 41935 hours at 3 minutes per record to locate, retrieve and extract the requested information to be reasonable given the details of the complainant's request. Even if Northumbria Police was to take one minute per record to locate and review each record for the information within the scope of the request, the cost of complying with the request would still be far in excess of the appropriate limit because this requires a manual review of a large number of records.
24. The Commissioner's decision is that Northumbria Police estimated reasonably that to comply with the complainant's request would exceed the cost limit. Northumbria Police was therefore correct to apply section 12(1) of the FOIA to the request.

Section 16(1) – The duty to provide advice and assistance

25. Section 16(1) of the FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice¹ in providing advice and assistance, it will have complied with section 16(1).
26. The Commissioner notes that Northumbria Police outlined to the complainant that the information was stored in a system that does not hold employer details, which was information fundamental to the request, and therefore, it is not possible to suggest a way to refine the request, as even with a reduced timeframe, hundreds of records would need to be checked manually.
27. The Commissioner accepts that due to the way in which the information is stored by Northumbria Police, and due to the length of time it would

¹ <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

take to search each record manually, the request could not be meaningfully refined to allow the information to be provided within the cost limit. As such, the Commissioner is satisfied that there was no breach of section 16(1) of the FOIA.

Right of appeal

28. 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

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

29. 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.
30. 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

Claire Churchill
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