

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 February 2023

Public Authority: Chief Constable of Northamptonshire Police
Address: Wootton Hall
Wootton Hall Park
Northampton
NN4 0JQ

Decision (including any steps ordered)

1. The complainant requested copies of two problem profile assessments produced or commissioned by Northamptonshire Police. Northamptonshire Police initially refused the request under section 12(1) (cost of compliance) of the FOIA. In its internal review Northamptonshire Police withdrew reliance on section 12 and stated that it now considered section 14(1) (vexatious requests) to apply as complying with the request would impose a grossly oppressive burden.
2. The Commissioner's decision is that Northamptonshire Police has incorrectly applied section 14(1) to the request.
3. The Commissioner requires Northamptonshire Police to take the following steps to ensure compliance with the legislation.
 - Issue a fresh response to the request which does not rely on section 14(1) of the FOIA.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

Request and response

5. On 15 August 2022, the complainant wrote to Northamptonshire Police and requested information in the following terms:
6. "Please provide a copy of the below reports as set out in your response to FOI 002400/22
 - 1) Interim Crime and Intelligence Strategic Assessment
 - 2) VAWG Profile – commissioned 2011"

The complainant asked for the information to be sent by email in a machine readable format such as .csv or .xlsx where appropriate".

7. Northamptonshire Police responded on 14 September 2022. It refused to comply with the request under section 12 of the FOIA as it said that, to do so, would exceed the appropriate limit.
8. Following an internal review Northamptonshire Police withdrew its reliance on section 12 and stated that it now considered the request to be vexatious under section 14(1) of the FOIA due to the grossly oppressive burden in complying with it.

Reasons for decision

Section 14(1) – Vexatious requests

9. Section 14(1) of FOIA allows a public authority to refuse to comply with a request if it is considered to be vexatious.
10. In the Commissioner's view, section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress. This will usually involve weighing the evidence about the impact on the authority and balancing this against the purpose and value of the request. This should be judged as objectively as possible; in other words, would a reasonable person think that the purpose and value are enough to justify the impact on the public authority.
11. In particular, the Commissioner accepts that there may be cases where a request could be considered to be vexatious because the amount of time required to review and prepare the information for disclosure would place a grossly oppressive burden on the public authority. This is the position adopted by Northamptonshire Police in this case.

12. The Commissioner believes that there is a high threshold for refusing a request on such grounds. This means that a public authority is most likely to have a viable case where;
- the requester has asked for a substantial volume of information; and
 - the authority has real concerns about potentially exempt information, which it will be able to substantiate if asked to do so by the Commissioner; and
 - any potentially exempt information cannot easily be isolated because it is scattered throughout the requested material.

Northamptonshire Police's position

13. Northamptonshire Police has confirmed that the two reports requested in this case comprise one 16 page report (Interim Crime and Intelligence Strategic Assessment) with over 8300 words. The other report (VAWG Profile commissioned in 2022 comprises 47 pages with just under 24,000 words. Northamptonshire Police also advised that both documents "contain tables, charts, maps, and references to other documents and web pages, the sources of which will also need assessment – for example, documents provided by partner agencies, internal and external web links, or to police only websites (Interim Crime and Intelligence Strategic Assessment 2021 – 12 external references; VAWG Profile – 49 tables and graphs and 30 external references)".

14. Northamptonshire Police advised the Commissioner that:

"Problem profiles and strategic assessments are created as intelligence products under the National Intelligence Model. The National Intelligence Model is a business process. The intention behind it is to provide focus to operational policing and to achieve a disproportionately greater impact from the resources applied to any problem. It is dependent on a clear framework of analysis of information and intelligence allowing a problem solving approach to law enforcement and crime prevention techniques.

- The aim of the Strategic Assessment is to identify the medium to long term issues that are apparent or emerging and to determine resource, funding and communication requirements. In that respect force strategic assessments should be considered in the business planning process and available for consultation between chief officers and police authorities. A further aim is to ensure there are links covering Level 1, 2 and 3 criminal activities between local, regional and national agencies.

- The purpose of a problem profile is to provide an assessment of a specific problem or series of problems which may be criminal, which may pose a threat to public safety or may be anti-social in context. The profile will include an analysis of the problem with recommendations for intelligence gathering, enforcement or prevention. Problem profiles are ideally suited for existing problem-oriented policing methodologies.

These profiles are created by the police when a priority crime or other threat or risk is identified; they are used to inform the strategic and tactical policing direction that the force want to take. Good problem profiles will take information and intelligence, not only from within the police service, but also from partner agencies and key professionals. The documents that have been requested were created for internal use, to be disseminated to senior officers and staff to allow them to make the appropriate decisions relating to how the force deal with our 'Matters of Priority':

- Violence against women and girls
- Drug harm
- Serious and organised crime
- Serious violence

The profiles therefore use facts and details that would not be made public. They include tactical elements as well as data and information relating to very specific areas, locations, and demographics of the local population.

It could be argued that if the authors of these problem profiles wrote them with a view to them being made public, they would not be as comprehensive as they are, and they would not be able to evidence fully the points that were being raised, therefore providing a narrowed or restricted report. Senior officers and staff could make inappropriate decisions due to the fact that their decisions were based on limited data and analysis. In fact, decision making could be considered flawed, as all the information available was not considered. The use of policing powers may be unlawful, for example the use of stop and search, removal of face coverings, etc if the senior officers were not provided with all of the information relevant to their decision making processes.

In addition, as the author of these documents will write them with the information available to them, either individually or to their force, each document is likely to be unique, meaning that a specific response from one police force, or a previous response from

Northamptonshire Police, should not be seen as an indication of what information could be supplied again, or by another force”.

15. Northamptonshire Police stated that there is a large amount of information scattered throughout the two documents which would require more than just a cursory assessment. Instead it would require a thorough examination to determine the risk of disclosure. As an example, Northamptonshire Police advised that crime figures showing “high crime hotspots cause concern, but additionally, areas with little or no crime identifies vulnerability, leaving it wide open to exploitation”.
16. In its internal review Northamptonshire Police stated that it has real concerns about potentially exempt information being scattered throughout the two documents which cannot be easily isolated. It is likely that some of the information would be exempt under sections 31 (law enforcement) and section 40 (personal data). It is also possible that other exemptions would be applicable once a comprehensive assessment of the information is undertaken.
17. As some of the information contained within the two documents was provided by internal and external stakeholders, consultation would need to be undertaken with these parties in order to properly assess the sensitivity of the information.
18. In its internal review Northamptonshire Police referred to the estimate of 40 hours given in its initial response as the time it would take to comply with the request and stated that:

“The time allowed for redaction, decisions regarding which exemptions may need to be considered, or any public interest tests, were not included as part of the calculation of the ‘approximately 40 hours’; this time scale was provided to us by the data holder on how long it would take them to establish what they thought could or could not be released.

I have reviewed the information provided to us by the data holder in relation to the time they have estimated it would take for them to assess and review the two documents. I agree with my colleague’s conclusion that it would take approximately 40 hours to extract the information for your response. It has already taken the data holder over 4 hours work to provide this initial assessment.

Once they have carried out this further assessment on the documents, these would then be passed to us in order to carry out the redactions and apply any relevant exemptions and public interest tests. I estimate that this would take one member of staff approximately 16 hours to complete”.

19. In their internal review request the complainant referred to a previous FOI request they had submitted for similar information where the problem profile had been disclosed. Northamptonshire Police explained that, at the time of this earlier request, the problem profile in question was over three years old. It considers that there is less harm in the disclosure of historic information than in more current information, as in this particular request.

The Commissioner's position

20. Having reviewed Northamptonshire Police's submissions and estimates, the Commissioner is not persuaded that all of the activities set out in its estimate should be included in the consideration of this case. There also appears to be some duplication of work. For example, it is not clear to the Commissioner why it would take 40 hours to "extract the information" when it is clear that the information comprises two reports. Furthermore, Northamptonshire Police advised that this 40 hours would include the time it would take to establish what could be released. It then goes on to state that it would then take an additional 16 hours to carry out redactions, consider what exemptions are applicable and public interest test considerations for any qualified exemptions. It is not clear to the Commissioner what the material difference is between considering what information could be released and considering what exemptions are applicable. The Commissioner considers that these activities could be done at the same time.
21. However, the Commissioner accepts that there is a redaction burden associated with complying with the request and will proceed to consider if this is sufficient to engage section 14(1).
22. With regard to the criterion set out in paragraph 14 above, the Commissioner is prepared to accept that Northamptonshire Police has real concerns about exempt information being scattered throughout the two documents. He also accepts that the documents contain information provided by third parties which would require consultation with the parties concerned and that any external references and links would also need to be checked. However, the Commissioner considers that checks of any links would only be required if those links relate to non-public webpages or sites. Northamptonshire Police has not provided any information in respect of how many of the external references relate to non-public information.
23. With regard to the first criterion related to the volume of information caught by a request, the Commissioner is not persuaded that 63 pages of information represents "a substantial volume of information". Northamptonshire Police's total estimate appears to be over 56 hours to review the information in question to see whether it could be disclosed,

what exemptions apply and to physically redact the documents. This estimate works out at around one hour per page of information.

24. In the absence of any further detail about the estimated time to comply with the request, including what specific activities are involved and the time it would take to undertake each activity the Commissioner feels he has no choice but to reject the Northamptonshire Police's assertion that the request is vexatious based on the grossly oppressive burden that compliance with the request would cause.

Right of appeal

25. 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

26. 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.
27. 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

Joanne Edwards
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