

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 February 2023

Public Authority: Chief Constable of Humberside Police

Address: Police Station
Priory Road
Hull HU5 5SF

Decision (including any steps ordered)

1. The complainant requested information from Humberside Police. The Commissioner's decision is that Humberside Police was entitled to refuse to comply with the request in accordance with section 12(4) (aggregation of related requests) of FOIA and is entitled to rely on section 12(1) of FOIA to refuse the requests. The Commissioner also finds that Humberside Police did comply with its obligations under section 16 of FOIA to offer advice and assistance.
2. The Commissioner does not require Humberside Police to take any steps.

Request and response

3. The complainant made the following requests for information to Humberside Police:

Received 28 November 2022:

"Current policies and procedures of the information compliance unit of Humberside Police.

Current policies and procedures for the PSB of Humberside police

All background documents associated with any of the relevant policies and procedures.

If not included, please also confirm the following information for each policy and procedure:

- Version;
- Implementation date;
- Review date(s); and
- Owing department."

Received 6 December 2022:

"would be most grateful if you could provide me with copies of force policies which were referred to in outcome letters that I received from the PSB and the PCC in relation to Police Complaint Reference CO/00959/22 and OPCC reference LPB096-22."

Received 10 December 2022:

1. Agenda and minutes for the senior decision-making committee.
2. Internal communications guidance, criteria used for decision-making, internal instructions, manuals and guidelines.
3. Current policies for complaints procedures covering requests for information and operating the publication scheme.
4. Records management and personal data policies.(Include information on security policies, records retention, destruction and archive policies, and data protection (including data sharing and CCTV usage) policies)
5. Disclosure logs regarding the information provided in response to FOIA and EIR requests.
6. Registers of interests. (Register of any interests which might conflict with the role of all chief officers including every other pecuniary interest or other paid positions that they hold).
7. Register of gifts and hospitality - senior personnel. (include details of gifts given or received, and details of any hospitality)."

Received 15/12/2022:

"I wish to request the Humberside police force published charging policy and schedule of charges."

Received 15/12/2022:

"1. The full audit report that was carried out on your website in May 2019.

2. The full report of the audit that was carried out by the Government Digital Service in October 2022

3. All data (including background data) in relation to :

- automated accessibility testing
- manual accessibility testing
- assistive technology testing

4.All data (including all background data) in relation to complaints data covering requests for information and operating the publication scheme operating the publication scheme since May 2019, to date."

Received 21/12/2022:

"A1. Does the Humberside police have a senior information risk owners (SIROs)? If not please explain why not.

A2. Does the Humberside police have a current information asset owner (IAO)? If not please explain why not.

A3 Does the Humberside police have a current data protection officer(DPO)? If not please explain why not.

A4. Does the Humberside police have a current records manage (RM)? If not please explain why not.

A5. If not does the Humberside police have a equivalent in place? If not please explain why not.

A6. Do you have a person in place that maintain information and records throughout their lifecycle of my personal data to ensure there is ongoing accuracy, reliability, integrity and usability, and to make sure that subsequent value is preserved? If not, please explain why not.

A7. Does the Humberside Police force systems and processes provide an audit of who created a record, when and for what purpose and does it record of each occasion when the record has been accessed, stating when it was accessed, by whom and for what purpose. If the record has been changed, either by an individual or due to a system upgrade? If not, please explain why not.

A8. Does the Humberside Police information conform to the data protection principle of accuracy, ensuring that it is correct, up to date, relevant, complete and not unnecessarily duplicated and does it comply

with appropriate published national recording standards? If not, please explain why not.

A9. Has the Humberside Police put arrangements in place to ensure that information is handled in line with relevant legislative and regulatory obligations, including the supporting national guidance? If not, please explain why not.

A10. With regards to my personal data did the Humberside Police keep any records with regards to any archived physical records and/or any archived digital records and/or any archived hard copy records? Do you have a partnership with an external archive service? If so is any of my personal data held there? Have any records be made in relation to archive selected documents for permanent preservations in relation to any of my personal data? If not, please explain why not.

A11. With regards to my personal data did the Humberside Police keep any records of any physical destruction of any of my physical records and/ or digital records and/ hard copy records? If not, please explain why not."

4. Humberside Police refused to provide the requested information citing section 12 (cost limit) of FOIA as its basis for doing so.

Reasons for decision

Section 12(4) – Aggregation of related requests

5. When the public authority is estimating whether the appropriate limit is likely to be exceeded, it can include the costs of complying with two or more requests if the conditions laid out in regulation 5 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Fees Regulations") can be satisfied.
6. Section 12(4) of FOIA states:

"The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority –

 - (a) by one person, or
 - (b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign, the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them."
7. Regulation 5 of the Fees Regulations states:

“(1) In circumstances in which this regulation applies, where two or more requests for information to which section 1(1) of the 2000 Act would, apart from the appropriate limit, to any extent apply, are made to a public authority –

(a) by one person, or

(b) by different persons who appear to the public authority to be acting in concern or in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be the total costs which may be taken into account by the authority, under regulation 4, of complying with all of them.

(2) This regulation applies in circumstances in which –

(a) the two or more requests referred to in paragraph (1) relate, to any extent, to the same or similar information, and

(b) those requests are received by the public authority within any period of sixty consecutive working days.

(3) In this regulation, “working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.”

8. The Commissioner has reviewed the complainant’s six requests aggregated by Humberside Police. He is satisfied that all six of the requests were made by the same complainant and within 60 working days of each other, fulfilling the criteria at regulations 5(1)(a) and 5(2)(b).

9. The Commissioner must now consider whether these requests relate, to any extent, to the same or similar information. The Commissioner’s view on aggregating requests can be found in the guidance on requests where the cost of compliance exceeds the appropriate limit¹. Paragraphs 44 and 45 state:

“Regulation 5(2) of the Fees Regulations requires that the requests which are aggregated relate “to any extent” to the same or similar information. This is quite a wide test but public authorities should still ensure that the requests meet this requirement.

¹ [costs of compliance exceeds appropriate limit.pdf \(ico.org.uk\)](#)

A public authority needs to consider each case on its own facts but requests are likely to relate to the same or similar information where, for example, the requestor has expressly linked the requests, or where there is an overarching theme or common thread running between the requests in terms of the nature of the information that has been requested.”

10. The Fees Regulations’ wording of “relate, to any extent, to the same or similar information” makes clear that the requested information does not need to be closely linked to be aggregated, only that the requests can be linked.
11. Having reviewed the wording of the complainant’s requests, the Commissioner is satisfied that the information requests are substantially for policies, guidance, procedures and audit reports across various departments of Humberside Police. The requests mainly relate to policies on information management, complaints handling and the decision-making of Humberside Police. The information requested also overlapped in parts.
12. The Commissioner, therefore, finds that Humberside Police was entitled to rely on section 12(4) of FOIA to aggregate these six requests with the one currently under consideration here.

Section 12 – Cost of Compliance Exceeds Appropriate Limit

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

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.

14. Section 12 of FOIA states that:

- (1) 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.
- (2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.

15. The "Appropriate Limit" is defined in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Regulations") and is set at £450 for a public authority such as Humberside Police. The Regulations also state that staff time should be notionally charged at a flat rate of £25 per hour, giving an effective time limit of 18 hours.
16. When estimating the cost of complying with a request, a public authority is entitled to take account of the time or cost spent in:
 - (a) determining whether it holds the information,
 - (b) locating the information, or a document which may contain the information,
 - (c) retrieving the information, or a document which may contain the information, and
 - (d) extracting the information from a document containing it.
17. 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 in the case of *Randall v Information Commissioner & Medicines and Healthcare Products Regulatory Agency EA/2007/0004*, the Commissioner considers that any estimate must be "sensible, realistic and supported by cogent evidence".² 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.
18. In this case the Commissioner is of the view that the complainant has asked for a vast amount of information across different business areas of Humberside Police. It is the Commissioner's view that expecting Humberside Police to comply with these broad and wide-ranging requests would vastly exceed the cost limit under FOIA and represent an undue burden on its resources.
19. The Commissioner is therefore satisfied that Humberside Police was entitled to rely on section 12(1) of FOIA to refuse the request.

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

² <http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i136/Randall.pdf>

20. Section 16(1) of 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 practice³ in providing advice and assistance, it will have complied with section 16(1).
21. The Commissioner notes that Humberside Police did provide advice to the complainant on how to reduce their requests in their initial response of 22 December 2022. The Constabulary advised the complainant to limit their requests. The Commissioner is therefore satisfied that the Constabulary met its obligation under section 16 of FOIA.

Section 40(1) – personal data of the requester

22. Section 40(1) of FOIA provides an exemption from disclosure for any information which is the personal data of the person who has requested it. This is because a right of access to this information already exists via the Subject Access (SAR) provisions of the DPA and UK GDPR. Disclosure under SAR is disclosure of a person's data to them alone – rather than the disclosure to the world at large required by FOIA.
23. The Commissioner notes that some of the information requested relates directly to the complainant and that they could be identified from it. It therefore follows that the information is the personal data of the complainant.
24. Section 40(1) is an absolute exemption, with no requirement to consider the complainant's wishes. Given his dual role as the regulator of data protection legislation, the Commissioner has a responsibility to prevent personal data being inadvertently disclosed under FOIA. He has therefore proactively applied section 40(1) of FOIA to the personal information of the complainant, to prevent any possibility that the information might be disclosed under FOIA.

³ <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

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: 0300 1234504

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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF