

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

### **Decision notice**

**Date:** 22 February 2024

**Public Authority:** Chief Constable of Cambridgeshire  
Constabulary

**Address:** Constabulary Headquarters  
Hinchingsbrooke Park  
Huntingdon  
Cambridgeshire  
PE29 6NP

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

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1. The complainant has requested information relating to suspicions of fraud from Cambridgeshire Constabulary (the Constabulary).
2. The Commissioner's decision is that the Constabulary was entitled to rely on section 12(1) to refuse the request. The Commissioner also finds that the public authority did not comply with its section 16 obligation to offer advice and assistance.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
  - Provide the complainant with appropriate advice and assistance to help them submit a request that falls within the appropriate limit.
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 the Act and may be dealt with as a contempt of court.

## Request and response

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5. On 8 June 2023, the complainant wrote to the Constabulary and requested information in the following terms:

"I am asking about your approach with regard to the disclosure of information where Cambs police possess information that would rise to a suspicion of fraud – this is a general question albeit arising from a specific event.

Please provide

1. The procedure / policy Cambs police adopt when possessing information that an allegation of crime may be tainted by fraud, likely an attempt to deceive an insurer

and

2. Since 01/01/2020, the number of pre-emptive disclosures Cambs police have made - which will fall to the old and new MoU but not necessarily exclusively

and

3. Any information that would address you approach to fraud in general (policies/directives)

- a. whether you have a fraud unit/tam
- b. the staffing of the – number and rank."

6. The Constabulary responded on 6 July 2023. It provided some information within the scope of the request but refused to provide the remainder. It advised that complying with the request would exceed the appropriate limit and therefore relied on section 12 to refuse the request.

## Scope of the case

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7. The complainant contacted the Commissioner on 19 September 2023 to complain about the way their request for information had been handled.
8. The Commissioner considers that the scope of his investigation is to consider whether the Constabulary was entitled to refuse this request under section 12(1).

## Reasons for decision

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### Section 12 – cost of compliance

9. Section 12(1) of the 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. 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 the Constabulary is £450.
11. 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 the Constabulary.
12. 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 containing it;
  - retrieving the information, or a document containing it; and
  - extracting the information from a document containing it.
13. 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”. 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.
14. 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.

**Would the cost of compliance exceed the appropriate limit?**

15. As is the practice in a case in which the public authority has informed the complainant that it holds the information, the Commissioner asked the Constabulary to provide a detailed estimate of the time or cost needed to provide the information falling within the scope of this request.
16. The Constabulary stated that it records all insurance company requests under one classification case type, "insurance". The Constabulary explained that for the requested period, there were 635 insurance requests.
17. It further explained that in order to determine whether any pre-emptive disclosures were made, it would need to review all 635 of the "insurance" records to determine whether they came in through an Appendix D or E.
18. The Constabulary explained that Appendix E are the only claims which relate to an assumption of fraud. Unfortunately there is no way to filter the Appendix E records from the Appendix D and therefore it would be required to review all 635 insurance records.
19. In its submission to the Commissioner the Constabulary focused its response on the cost of complying with the second question which related to pre-emptive disclosures. It explained that it does not record the information requested in the form of memorandums of understanding (MoU). In order for the Constabulary to locate the requested information, it would therefore be required to manually reviewed all insurance claims and try and locate whether the request has come in via an appendix D or E (these are the only claims which would relate to an MoU).
20. To determine whether a pre-emptive disclosure was made that fell within the scope of an MoU, each record would need to be checked together with any supporting scanned documents to see if the claim was made under appendix D or E.
21. The Constabulary advised that when it undertook a sampling exercise on 10 applications, it took approximately 2 minutes per claim to determine if the information fell into the scope of the request. It concluded that it would take approximately 21 hours in total to review all 635 applications in order to identify all the information it held within the scope of the request.

The Commissioner considers that the Constabulary's estimate of the cost of complying with the request is reasonable and that responding to the request would exceed the appropriate limit. The Constabulary was therefore entitled to apply section 12(1) of FOIA to refuse the complainant's request.

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

22. 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 practice<sup>1</sup> in providing advice and assistance, it will have complied with section 16(1).
23. 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.
24. The Commissioner notes that the Constabulary explained that it could not provide any meaningful advice and assistance to reduce the scope. It explained even if the complainant was to reduce the time period of the request was reduce, the work involved with the request would still likely exceed the cost limit.
25. The Commissioner notes that the appropriate limit was only exceeded by a few hours and therefore finds it likely that reducing the scope of this request (such as by reducing the time period) would allow for a response to be provided.
26. The Commissioner is therefore not satisfied that the Constabulary met its obligations under section 16 of FOIA. The Constabulary should now provide the complainant with advice and assistance.

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

## Right of appeal

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27. 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](mailto:grc@justice.gov.uk)

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

28. 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.
29. 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 .....**

**Roger Cawthorne**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**