

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 November 2013

Public Authority: Chief Constable of South Wales Police

Address: Police Headquarters
Cowbridge Road
Bridgend
CF31 3SU

Decision (including any steps ordered)

1. The complainant requested various items of information for the five year period from 2008 to 2012 in respect of actions taken against taxi drivers in South Wales. South Wales Police ('SWP') refused to provide the information by virtue of section 12 of the FOIA. The Commissioner's decision is that SWP was entitled to rely on section 12 of the FOIA. The Commissioner requires no steps to be taken.

Request and response

2. On 26 December 2012, the complainant wrote to SWP and requested the following information:

"I would like to request...for the last 5 years. How many complaints and actions were taken against taxi Drivers in South Wales (Hackney and Private Hire)? How many of them were from Ethnic minority origin? The outcome of those complaints, actions and their nature per local licensing authority in South Wales..."

3. SWP responded on 21 January 2013. It refused to provide the information citing section 12 of the FOIA. It did however inform the complainant that section 16 of the FOIA places a duty on public authorities to provide advice and assistance to help the applicant redefine the request within the cost limit. In this instance, it informed the complainant that it was unable to suggest any practical way in which he could modify his request to bring it within the cost limit.

4. Following an internal review SWP wrote to the complainant on 18 March 2013. It confirmed that it was still relying on section 12 of the FOIA to refuse to provide the information.

Scope of the case

5. The complainant contacted the Commissioner on 14 June 2013 to complain about the way his request for information had been handled.
6. During the course of the Commissioner's investigation SWP confirmed that, based on its revised estimate of costs, it could now provide the information falling within the scope of the complainant's request for 2012 within the cost limit. Although it was not obliged to do so, SWP have now provided this information to the complainant. The information in respect of 2012 is not therefore included in the scope of the Commissioner's investigation.
7. The Commissioner also notes that although SWP estimated that it could provide the information in respect of 2012 within the cost limit, in reality it took SWP in excess of the 18 hours.

Reasons for decision

Section 12 – cost of compliance exceeds the appropriate limit

8. Section 12 of the FOIA states that:

"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."

9. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the 'Regulations') sets the appropriate limit at £450 for the public authority in question. Under these Regulations, a public authority can charge a maximum of £25 per hour for work undertaken to comply with a request. This equates to 18 hours work in accordance with the appropriate limit set out above.
10. A public authority is only required to provide a reasonable estimate or breakdown of costs and in putting together its estimate it can take the following processes into consideration:
 - (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.
11. In his assessment of whether SWP has correctly relied on section 12 of the FOIA, the Commissioner has considered the estimate provided by SWP during the course of his investigation.
 12. As stated in paragraph 6 of this notice, the information in respect of 2012 has been scoped out of this notice as SWP has disclosed it to the complainant during the course of the Commissioner's investigation.
 13. SWP has confirmed that the number of taxi drivers who had come to its notice and had a letter sent for the period from 2008 to 2011 is 393. This can be sub-divided by year as follows:
 - 2008 – 64
 - 2009 – 144
 - 2010 – 98
 - 2011 – 87
 14. To arrive at its estimate of costs, SWP conducted a sample of 10 taxi drivers for the year 2012 and outlined the following process of retrieval:
 - *"Search for letter to authority (1 minute).*
 - *The name of the local licensing authority was retrieved and extracted from the letter (1 minute)*
 - *The letter contains the name, date of birth and the date of offence. A search of our database... was then carried out in order to bring back the relevant record (2 minutes) as search is slower when based on the name and date of birth as opposed to an occurrence number.*
 - *The relevant occurrence was located, the ethnicity tab examined and the relevant information extracted and put into a central document (2 minutes). This box is not always populated and a further search may be required through the custody log which could [add] a further three minutes.*
 - *The outcome of the complaint can be found either in the court result sheet (2 minutes) or the Police National Computer (a further 3 minutes).*
 - *The nature of the complaint can be found in the offence tab or on the letter to the authority (1 minute).*
 15. SWP confirmed that it took one hour and 30 minutes to complete the sample and has calculated that it took an average of nine minutes per

case. SWP also informed the Commissioner that for the years 2008 and 2009, the retrieval process would have taken approximately two to three minutes longer due to the fact that the dates of birth were not recorded on the letter prior to mid-way through 2009.

16. Based on the sample for 2012, the Commissioner notes that the process identified in paragraph 14 of this notice, would give a total estimate for the four year period in excess of 58 hours. The Commissioner acknowledges that this is a conservative estimate.
17. The Commissioner considers that the estimate provided by SWP represents a reasonable breakdown of costs. He also notes that the process outlined above will add a further three to six minutes to some cases, increasing the estimate further. As the minimum estimate of 58 hours is far in excess of the 18 hours provided for under the Regulations, the Commissioner is satisfied that SWP correctly relied on section 12 to refuse to provide the information in this case.

Other matters

Section 16 – Advice and assistance

18. As stated in paragraph 3 of this notice, SWP informed the complainant that although it had a duty to provide advice and assistance with a view to helping him re-phrase his request within the cost limit, it was unable to suggest any practical way in which the request could be modified.
19. However, the Commissioner notes that during the course of his investigation, SWP's revised estimate of costs indicated that it could provide the information for 2012 within the cost limit. Therefore, if SWP had calculated its estimate of costs correctly at the time of the request, the Commissioner notes that it would have been able to offer some practical advice and assistance to the complainant in this respect.
20. However, as stated in paragraph 6 of this notice, following its revised estimate, SWP agreed to provide this information to the complainant voluntarily.

Right of appeal

21. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

22. 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.
23. 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

Anne Jones
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF