

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

### **Decision notice**

**Date:** 4 June 2015

**Public Authority:** Chief Constable of Staffordshire Police  
**Address:** Staffordshire Police Headquarters  
PO Box 3167  
Stafford  
ST16 9JZ

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

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1. The complainant made three requests to Staffordshire Police for information relating to reports concerning Child Sexual Exploitation. Staffordshire Police refused this request on cost grounds under section 12(1) of the FOIA.
2. The Commissioner's decision is that Staffordshire Police applied section 12(1) of the FOIA correctly and so it was not obliged to comply with the complainant's information request. However, the Commissioner also finds that Staffordshire Police failed to provide adequate advice and assistance to the complainant under section 16(1) of the FOIA.
3. The Commissioner requires Staffordshire Police to take the following steps to ensure compliance with the legislation.
  - Take reasonable steps to advise and assist the complainant with a view to refining their requests to bring them within the cost limit.
4. Staffordshire Police 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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5. On 10 October 2014, the complainant wrote to Staffordshire Police and requested information in the following terms:

*"I would like a copy of all reports prepared during 2013 – 2014 concerning Child Sexual Exploitation."*

6. Staffordshire Police wrote to the complainant on 13 October 2014 requesting clarification of what the complainant meant by 'reports' and 'any information held'. The complainant provided clarification on 17 October 2014 in the following terms:

*"By reports I mean considered documents ie not crime reports, case files or intelligence which would most likely be exempt under the Act."*

7. On 17 October 2014, the complainant wrote to Staffordshire Police and made a further request for information in the following terms:

*"I am referring to the reports discussed by the Children and Young People's Overview and Scrutiny Meeting as Stoke on Trent City Council, held on 16th October 2014 at agenda item 6. Data in those reports refers to figures submitted as part of a survey for OCC. It states: "Stoke-on-Trent returned a figure of 105 with 78 children/young people being at risk and 27 being sexually exploited."*

*I would like to know, of the 27 children identified as being sexually exploited:*

- 1) How many of those children's cases have resulted in criminal prosecutions for the matters complained of?*
- 2) If any of those children's case have resulted in criminal prosecutions for the matters complained of, were or are those children in care?*

*During financial year 2013/14 Base 58 (run by Brighter Futures) provided support to 151 individual children.*

- 3) How many of those children's cases have resulted in criminal prosecutions for the matters complained of?"*

8. The complainant made a further request for information to Staffordshire Police on 17 October 2014 in the following terms:

*"I would like details of the number of instances where complaints were made to Staffordshire Police about Child Sexual Exploitation from January 2013 – October 2014. Where possible I would like a breakdown of which area of Staffordshire the complaint were made – ie by division.*

*I would also like any available information on what action, if any, was taken in respect of each complaint made."*

9. Staffordshire Police responded on 18 November 2014 aggregating the three requests for information and refusing the requests under section 12 of the FOIA as it estimated that the cost of complying with the requests would be excessive.
10. The complainant responded on 18 November 2014 and requested an internal review. Staffordshire Police provided an internal review decision on 9 December 2014 upholding their original decision to refuse the requests under section 12 of the FOIA.

### **Scope of the case**

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11. The complainant contacted the Commissioner on 16 December 2014 to complain about the refusal of her requests.
12. The complainant believed that Staffordshire Police incorrectly aggregated the three requests, failed to make a reasonable estimate of the cost of complying with them and failed in its obligations under section 16 of the FOIA.

### **Reasons for decision**

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#### **Section 12**

##### **Aggregating the requests**

13. Section 12(4) of the FOIA provides that in certain cases a public authority can aggregate the cost of complying with multiple requests. Section 5 of the Fees Regulations sets out the circumstances in which it may be appropriate to aggregate requests. This states that two or more requests to one public authority can be aggregated for the purposes of calculating costs if they are:
  - by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign;
  - for the same or similar information to any extent; and
  - the subsequent request is received by the public authority within 60 working days of the previous request.

14. The Commissioner has concluded that the three requests can be aggregated for the purpose of calculating the cost of compliance as it is clear to the Commissioner that the requests made by the complainant relate to similar information.

### **The cost of compliance**

15. Section 12(1) of the FOIA provides that a public authority is not obliged to comply with a request if it estimates that the cost of doing so would exceed the appropriate cost limit. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 sets out the tasks that can be taken into account when forming a cost estimate as follows:
- (a) determining whether the requested information is held,
  - (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.
16. Regulation 4(4) states that the authority should calculate the cost of complying with a request at the rate of £25 per hour. If the authority estimates that complying with the request would cost more than the appropriate limit, it is not obliged to comply with the request. In the case of non-central government public authorities, a limit of £450 applies, which equates to 18 hours.
17. Section 12(1) requires a public authority to estimate the cost of a request; it is not required to calculate the exact cost of the request. The question for the Commissioner here is whether the estimate made by Staffordshire Police of the cost of this request was *reasonable*.
18. Turning to the reasoning provided by Staffordshire Police as to why compliance with this request would result in exceeding the cost limit, Staffordshire Police explained that there is no recognised crime category of "*Child Sexual Exploitation*" (CSE). Staffordshire Police explained that whilst there may be victims and offenders of crimes such as grooming, sexual activity with a child, trafficking or even the more serious sexual violence crimes, there is no specific crime type of child sexual exploitation. Staffordshire Police explained that this therefore would make it very difficult for them to collate the requested information. Staffordshire Police went on to explain that the only accurate way of identifying all the CSE cases is to read information relating to every child sexual abuse crime and ascertain if there was a CSE element to it. In

addition, Staffordshire Police explained that there are other crimes where the victim was a child that although not sexual in nature may stem from an exploitative relationship which would inflate the figures to research further.

19. The Commissioner accepts that the information being requested has been recorded in such a way that it would not be a simple task for Staffordshire Police to collate that information.
20. Staffordshire Police explained that researching the crimes to ascertain whether they are CSE-related would initially involve reading the crime serial electronically via their crime system. They explained that this update is a summary of the crime provided by the investigative officer that sets out the main circumstances surrounding the offence reported. Staffordshire Police explained that they would need to read the incident text which includes information from the victim or whoever first reported the crime and any updates from the attending officer. They would also need to read any of the officer updates that are provided during the investigation following arrest, interview of the suspect, and the victim interview/statement.
21. Staffordshire Police explained that for a crime to be classified as CSE there has to be an element of the victim receiving something in exchange for a sexual act taking place. They explained that an exchange does not have to have taken place at the point of offence, the victim could perceive that it may take place in the future and to complicate the matter this exchange may be as simple as affection. Staffordshire Police confirm that reading the crime serial may not clearly identify that an exchange has taken place, therefore the Intelligence Department and the CSE investigative team would need to be contacted to check if they were aware of a victim's history and whether they had ever been targeted previously or possess some of the key factors that make them vulnerable to CSE.
22. Staffordshire Police stated that if it were to provide the information recorded within the financial year 2013-2014, which was the time period referred to in the first request, it would require them to read 961 crime files.
23. The Commissioner accepts that it would be impossible for Staffordshire Police to review one record per minute which would be the approximate maximum time required to comply with this request without exceeding the cost limit. This is based on the explanation given by Staffordshire Police of how CSE is defined and the research required that expands beyond, for example, identifying a small amount of text on a database. Once one part of the request exceeds the appropriate limit the public authority is entitled to refuse the request under section 12 of the FOIA.

24. The Commissioner accepts that to provide the requested information it would exceed the appropriate limit and therefore Staffordshire Police is entitled to refuse the request under section 12 of the FOIA.

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

25. Section 16(1) provides that a public authority is under an obligation to provide advice and assistance to any person who has made an information request to it. In relation to section 12(1), this should mean that a public authority provides advice to the requester as to how their request could be refined to bring it within the cost limit.
26. In this case Staffordshire Police did not provide advice on refining the request in either the refusal notice or the internal review response. As a result the Commissioner finds that Staffordshire Police is in breach of section 16(1) as it failed to take steps to address its obligation to provide advice and assistance.

## 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: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: <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 .....**

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**