

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 April 2015

Public Authority: Commissioner of the Metropolitan Police Service

Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant has requested various details about people that the Metropolitan Police Service (the "MPS") has "taken back" to its Stoke Newington Police Station. The MPS advised that to comply with the request would exceed the appropriate limit under section 12 of the FOIA. The Commissioner's decision is that the MPS was correct to do so and he requires no steps to be taken.

Request and response

2. On 2 January 2015, the complainant wrote to the MPS and requested information in the following terms:

"Could you please tell me how many people from outside your designated area you have taken back to Stoke Newington Police Station in the months November 2014 to today December 25th.

Could you also tell me how many of these people were?

- 1- Men*
- 2- Women*
- 3- Arrested*
- 4- Cautioned*

- 5- Released with no charge or caution*
- 6- Warned not to mention the time at the police station on any social media website*
- 7- The distance in miles of the person furthest from Stoke Newington Police Station that was detained and brought to said police station".*

3. The MPS responded on 28 January 2015. It stated that, because of parts 6 and 7, it would exceed the appropriate limit to comply with the request. It gave a breakdown, it suggested what information it may be able to provide, and it also asked for clarification regarding the terms "people from outside your designated area" and "taken back to".
4. When asking for an internal review the complainant did not reduce the request nor did he clarify what he meant by the terms queried.
5. Following an internal review the MPS wrote to the complainant on 2 February 2015 maintaining its position.

Scope of the case

6. The complainant contacted the Commissioner on 3 February 2015 to complain about the way his request for information had been handled. He advised the Commissioner as follows:

"As the information I am requesting will only amount to a miniscule number of people from outside the police stations area and that the information should be easily available via the police stations computer I do not see how the costs would be excessive. I am guessing there are less than 6 people detained- not arrested, from outside of the area and as such would be more than easy to find on their system. There is a cover up going on here that needs exposing".

7. The Commissioner will therefore consider the application of section 12.

Reasons for decision

Section 12 – cost of compliance

8. Section 12(1) 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.

9. When considering whether section 12(1) applies, the authority can only take into account certain costs, as set out in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ('the Regulations'). These are:
- (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."*
10. The Regulations state that the appropriate cost limit is £600 for central government, legislative bodies and the armed forces, and £450 for all other public authorities. The cost limit in this case is £450, which is equivalent to 18 hours' work.
11. Section 12 of the FOIA makes it clear that a public authority only has to estimate whether the cost of complying would exceed the appropriate limit. It is not required to provide a precise calculation.
12. The MPS also confirmed to the Commissioner that, as per condition 5 of the Regulations, it had aggregated the various parts of the request because they: "*all relate directly to individuals being arrested and taken to Stoke Newington Police Station in north London*". The Commissioner agrees that they are entitled to do so because they are from the same individual and they relate to the same or similar information.
13. In its refusal notice the MPS explained to the complainant that:
- "... we would not be able to collate information for questions 6 and 7 as this would exceed the cost threshold. This information is not held in an easily extractable format on any of our systems and would require a manual search of custody records to accurately answer this question. To put this into some context there were 791 custody records for Stoke Newington in the times specified. At a very conservative estimate if it took 5 minutes per record to work out the arrest location and the distance from the police station from each record that would be something in the region of 66 hours. Even 2 minutes would be over 26 hours. It is this search that exceeds the cost threshold."*
14. By way of advice and assistance it added:
- "We can break the arrests down by gender and outcome (i.e. cautioned, NFA [no further action] etc). In this instance, would you like to proceed with this suggestion?"*

If you are happy with the above suggestion we would require more clarification. What is meant by "people from outside your designated area" and "taken back to"? We can obviously work out how many custody records were created at Stoke Newington within the date criteria but working out where they came from may be problematic. The arrest location field is free text and because of this would you like information to be extracted in a way that will come within the cost threshold but please bear in mind that this may not be what you actually want".

15. When asking for an internal review the complainant did not narrow his request, did not explain the terms as requested and did not explain why he disagreed with the MPS's calculation.

16. In its internal review the MPS further explained:

"The review has established that in the original case, enquiries were made within Hackney Borough Operational Command Unit and the MPS Corporate Data Analysts and is satisfied these were the most appropriate units to deal with your initial request surrounding individuals taken to Stoke Newington Police station. These enquiries established that in order to locate any relevant information would require a member of police staff to manually read through 791 relevant custody records within the specific days you have mentioned. This is because there is no single automatic system to search for the information you are seeking.

It remains the fact that in order to locate and extract any pertinent information will require a manual search of custody and other records held by the MPS. This is because of the nature of your request in seeking specific information such as how many individuals were warned not to mention the time at the police station on any social media website and for the distance in miles of the person furthest from Stoke Newington police station that was detained and brought to the police station. There is simply no quicker method of dealing with your request, other than by reading each and every relevant record held throughout this time frame within MPS systems".

17. In further correspondence with the Commissioner the MPS added:

"... in order to discover whether an individual was arrested outside the MPS and given instruction not to mention anything on social media each and every custody record would need to be examined. This is because either entry is free text, not standard. It may also be a remote possibility that the social media condition could be an

element of bail. If so case papers, if any would also need to be located and checked. However I am satisfied that the excess cost issue is sufficiently covered by the examination of custody records alone. In that in the very conservative estimate of 2 minutes per custody record it would take 26 hours and 22 minutes, far in excess of the 18 hours allowed”.

18. As stated above, the MPS only has to give an estimate as to whether the cost of complying would exceed the appropriate limit, not a precise calculation. Having considered the estimates provided the Commissioner finds that they are realistic and reasonable. He therefore accepts that to provide the information would exceed the appropriate limit.

Section 16 – advice and assistance

19. Section 16(1) of the FOIA provides that a public authority is required to provide advice and assistance to any individual making an information request. In general where section 12(1) is cited, in order to comply with this duty a public authority should advise the requester as to how their request could be refined to bring it within the cost limit, albeit that the Commissioner does recognise that where a request is far in excess of the limit, it may not be practical to provide any useful advice.
20. In this case the MPS has explained to the complainant about how the information is held and why compliance would exceed the limit. It has also suggested ways in which it may be able to comply with parts of the request. Furthermore, it tried to enter into dialogue with the complainant during the Commissioner’s investigation in an effort to assist him further but this offer was rejected. The Commissioner is therefore satisfied that the MPS has fully complied with its obligations under section 16.

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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

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

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