

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 August 2022

Public Authority: Chief Constable of Staffordshire Police
Police Headquarters

Address: Weston Road
Stafford
ST18 0YY

Decision (including any steps ordered)

1. The complainant requested information from Staffordshire Police ("the Police") relating to the statistics from its traffic video reporting system. The Police refused to comply with the request citing section 12 (cost limit) of FOIA.
2. The Commissioner's decision is that the Police were entitled to refuse to comply with the request in accordance with section 12(1) of FOIA. The Commissioner also finds that the Police complied with its obligations under section 16 to offer advice and assistance.
3. The Commissioner does not require the Police to take any steps.

Request and response

4. On 4 January 2022, the complainant made the following request for information to the Police:

"Please provide outcome statistics from you[r] traffic video reporting system where the box has been ticked that the submitter is a cyclist as follows:

Date range - Ideally for last 5 calendar years, but as far back as your digital reporting system allows if less (but please report when your digital online reporting system was live).

Data: Total number of submissions by cyclists per year and Outcome - No Further action, Warning Letter, FPN or Prosecution.

Totals for each category only are all that are required.

Please then also provide the same data where the submitter is a cyclist box has not been ticked (all /any other category).

Your reporting and internal tracking system will allow quick collection of this data, once downloaded into a simple excel file (via csv or other method) and processed with some simple rules, which would take less than 1 hour. It should also be data you track anyway to measure your own performance and internal reporting, so should actually already be available (do not worry if you have a slightly different breakdown of outcome) - the above outcome list was as produced by other forces to make collation of data simple for them. Again, I only require the final totals, the excel (or other) would be your internal processing step and I am not asking for access to that."

5. The Police responded on 1 February 2022. It stated that it held information within the scope of the request, but that the cost of complying with the request would exceed the cost threshold of £450 for public authorities such as the Police. In accordance with this finding, the Police issued a section 12 refusal notice in reply to the complainant's request for information. The Police explained that, due to the nature of the request, it was unable to offer advice and assistance which would allow relevant information to be provided within the cost limit.
6. The Police upheld its initial application of section 12 of FOIA in its internal review on 7 February 2022.

Scope of the case

7. The complainant contacted the Commissioner on 7 February 2022 to complain about the way their request for information had been handled. The complainant disagrees with the Police's application of section 12 of FOIA.
10. The Commissioner considers the scope of this case to be to determine if the Police has correctly cited section 12(1) of FOIA in response to the request. The Commissioner has also considered whether the Police met its obligation to offer advice and assistance, under section 16 of FOIA.

Reasons for decision

Section 12 – cost of compliance

11. 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”).
12. Section 12(2) of the FOIA states that subsection (1) does not exempt the public authority from the obligation to comply with paragraph (a) of section 1(1) (the duty to inform an applicant whether it holds information of the description specified in the request) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit. The Police relied on section 12(1) in this case.
13. 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 Police is £450.
14. 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 Police.
15. 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.
16. 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.

17. 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.
18. 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.

Would the cost of compliance exceed the appropriate limit?

19. 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 Police to provide a detailed estimate of the time/cost taken to provide the information falling within the scope of this request.
20. In its submission to the Commissioner, the Police stated that the Command and Control system which holds the information, does not have any "tags" which would readily identify the incidents requested. The system also records all reported incidents, not just those submitted through the website. Doing a key word search such as "Traffic Offences or Road Traffic Collison" would be the only way to retrieve the data requested.
21. For 2019 alone there were 4,991 Traffic Offence incident types and for Road Traffic Collison incident there were 11,343. Meaning a total of 16,334 incidents would need to be extracted and reviewed to see if the data requested is contained. The Police estimated it would take an average 3 minutes per record, which would take approximately 49,002 minutes which equates 817 hours to retrieve the information requested.
22. The Police also stated that if the outcome is not recorded on the Command and Control system, then the officer who dealt with the matter would need to be contacted to establish the outcome.
23. To then establish if the incident led to prosecution a different system would need to be examined and the data cross referenced with the Command and Control System. In 2019 alone there were 343 driving without due care and attention offences. The Police estimated it would take 5 minutes per incident to cross-reference dates, vehicle make and models and locations which equates to 28.6 hours of research.

24. Based on the information provided, the Commissioner considers that the Police estimated reasonably that it would take more than the 18 hours or the £450 limit to respond to the request. The Police was therefore correct to apply section 12(1) of FOIA to the complainant's request.
25. The Commissioner and the Police both recognise that other police forces may hold the information in a more efficient way, which allows those forces to extract and easily supply the requested information within the cost limit. However, this does not mean that each force will hold information in the same manner, nor should this be expected of them.

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

26. 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 practice¹ in providing advice and assistance, it will have complied with section 16(1).
27. The Commissioner notes that the Police was unable to provide any assistance for the request due to how the information is held. Given the nature of the request, the vast of amount of information involved and the explanation of the way that it is held, the Commissioner considers that it would not have been possible to refine the request in any meaningful way to provide information within the cost limit. The Commissioner is therefore satisfied that, in the circumstances, the Police met its obligations under section 16 of FOIA.

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

Right of appeal

28. 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

29. 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.
30. 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

Claire Churchill
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