

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 November 2022

Public Authority: Chief Constable of Merseyside Constabulary
Address: Merseyside Police Headquarters
Rose Hill
Cazneau Street
Liverpool
L3 3AN

Decision

1. The complainant has requested information relating to allegations of child sexual abuse and/or exploitation related to the Jehovah's Witness organisation.
2. The Commissioner's decision is that Merseyside Police was entitled to apply section 12(2) of FOIA and is satisfied that Merseyside Police met its obligations under section 16(1) to offer advice and assistance. No steps are required.

Request and response

3. On 11 January 2022 the complainant requested information of the following description:

"This is a Freedom of Information Act request for information for data you hold investigations into allegations of child sexual abuse and/or exploitation (CSA/E) related to the Jehovah's Witness organisation.

For the questions below, please take the phrase "involving the Jehovah's Witness organisation" to mean that the accused and / or the victim were a Jehovah's Witness.

The questions are listed in order of priority, please answer as many as possible within the allotted time.

1. How many allegations of child sexual abuse and/or exploitation involving the Jehovah's Witness organisation has your force received over the past 10 years? Please provide an annual total for the number of alleged perpetrators/suspects of this crime notified to your force each year.
 2. How many investigations into allegations of CSA/E involving the Jehovah's Witness organisation has your force carried OUT over the past 10 years? Please provide an annual total number of investigations for each year.
 3. Please break down the total number of investigations by status. This can be 'live' or 'closed'. If 'closed', please specify the investigation outcome, including but not limited to: no further action (NFA) by police, NFA by the Crown Prosecution Service, caution, acquittal or conviction.
 4. For all investigations which were closed following NFA by police, please state the reasons why no further action was taken (such as, suspect deceased; suspect not identified/traced; victim does not support police action; insufficient detail/evidence; and specifically, whether lack of cooperation from the Jehovah's Witness organisation was also a contributing factor.
 5. For all investigations of CSA/E involving the Jehovah's Witness organisation, please can you state whether a report of the alleged abuse was made within the Jehovah's Witness congregation/organisation before it was reported to the police? For example, the JW organisation may have disclosed to you internal documents they had in relation to a report of the alleged abuse."
3. Merseyside Police refused the request under section 12(2) of FOIA.

Reasons for decision

4. This reasoning covers whether Merseyside Police is entitled to rely on section 12(2) of FOIA to refuse to provide the requested information.
5. Section 12(2) provides that a public authority is not obliged to confirm or deny whether requested information is held if it estimates that to do so would incur costs in excess of the "appropriate limit" as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Fees Regulations").
6. In other words, if the cost of establishing whether information of the description specified in the request is held would be excessive, the public authority is not required to do so.
7. The Fees Regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour,) effectively imposing a time limit of 18 hours for Hampshire Constabulary.
8. Where section 12(2) is relied upon, 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 activity:
 - determining whether the information is held.
9. Section 12(2) requires a public authority to estimate the cost of confirmation or denial, rather than to formulate an exact calculation. 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"
10. In its submission to the Commissioner, Merseyside Police explained it had conducted a keyword search for data held within the crime notes field of the forces Record Management system and that it searched for all relevant records from 1 January 2012 containing the word "Jehova" (to account for misspellings). It stated that only one offence was returned as a result of the above search and the below is their summary of their findings.

"The crime notes include the words 'JEHOVAS WITNESS' however I'd assess that it is not relevant to the 'Jehovah's Witness organisation'; rather the notes state that the parent of the aggrieved is of the 'JEHOVAS WITNESS' religion."
11. Merseyside Police also confirmed that it tried searching on the acronym 'JW', however, it stated that the only search results which returned were

referencing forensic exhibits: 'JW/1', 'JW/2' & 'JW/3' for an offence. Therefore, the information returned was also not relevant.

12. Merseyside Police confirmed that since 1 January 2012 there have been 29,788 crimes classified as CSA/CSE; inclusive of cases where the offence code itself is relevant to CSA/E regardless of whether a 'flag' has been entered on the occurrence or not (i.e., sexual offences against children). It also confirmed that there is a victim religion field which has an option 'Jehovah's Witness'. However, in 96.63% (28,784) of these crimes the victim religion was not recorded.
13. In its submission, Merseyside Police explained to the Commissioner that based on the results of the searches, it concluded that the data simply cannot be extracted quantitatively and would require a manual review of records to identify pertinent records. It explained that this would involve the crime notes, enquiry log entries and victim/witness statements all being read by someone to ascertain whether the case involved the Jehovah's Witness organisation and was therefore relevant or not to the complainant's request.
14. Merseyside Police stated that based on its experience it estimated that it would take around 10 minutes to manually assess each occurrence. It made the following calculation: $(28,784 \text{ records} \times 10) / 60$ which results in 4797.33 hours.
15. Based on the information provided, the Commissioner accepts that Merseyside Police would need to manually review all crime notes, enquiry log entries and victim/witness statements as it has explained its crime record system does not include the victims' religion in over 96% of cases.
16. The Commissioner accepts Merseyside Police's estimate to be reasonable and recognises that even if the time taken to conduct the manual review was reduced to 1 minute per case it would take far in excess of the 18 hours or £450 limit to respond to the request.
17. The Commissioner is therefore satisfied that Merseyside Police was entitled to rely on section 12(2) of FOIA to refuse the complainant's request.

Section 16(1) - advice and assistance

18. Section 16(1) of FOIA provides that a public authority is required to provide advice and assistance to any individual making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section.

19. The Commissioner accepts that due to the nature of the request, and due to the length of time it would take to search and manually review each record, the requests could not be meaningfully refined to allow the information to be provided within the cost limit. As such, the Commissioner is satisfied that there was no breach of section 16(1) of the FOIA.

Right of appeal

20. 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

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

21. 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.
22. 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

Laura Tomkinson
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF