

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 March 2022

Public Authority: The Chief Constable of Dorset Police
Address: Winfrith
Dorchester
Dorset
DT2 8DZ

Decision (including any steps ordered)

1. The complainant requested from the Chief Constable of Dorset Police ("Dorset Police") information relating to reports passed to Dorset Police from the National Fraud Intelligence Bureau to investigate.
2. The Commissioner's decision is that Dorset Police was entitled to refuse to comply with the request in accordance with section 12(1) of the FOIA. He also finds that Dorset Police met its obligations under section 16(1) of the FOIA to offer advice and assistance.
3. The Commissioner does not require Dorset Police to take any steps.

Request and response

4. On 10 March 2022, the complainant wrote to Dorset Police and requested information in the following terms:

 "Request 1

 For each month in the financial year 2019/20, please provide the number of reports of fraud passed to you from the National Fraud Intelligence Bureau (NFIB) to investigate.

 Request 2

 Please provide the number of individuals charged with offences in connection with the reports identified in Request 1."

5. Dorset Police responded on 16 April 2021 and refused to provide the requested information citing section 12(1) (cost limit) of the FOIA.

6. On 1 May 2021, the complainant wrote to Dorset Police to request an internal review.

7. Following an internal review, Dorset Police wrote to the complainant on 20 August 2021. Dorset Police maintained its reliance on section 12(1) of the FOIA.

Scope of the case

8. The complainant contacted the Commissioner on 22 August 2021 to complain about the way their request for information had been handled.
9. The Commissioner considers the scope of this case to be to determine if Dorset Police has correctly cited section 12(1) of the FOIA in response to the request.

Reasons for decision

Section 12 – cost of compliance

10. 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 cost limit.

11. The appropriate limit is set in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ('the Fees Regulations') at £450 for public authorities such as Dorset Police.
12. 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 Dorset Police.
13. 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.
14. 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 decision in the case of *Randall v IC & Medicines and Healthcare Products Regulatory Agency EA/20017/00041*, 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.
15. 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 the FOIA to consider whether there is a public interest in the disclosure of the information.
16. Where a public authority claims that section 12 of the 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 the FOIA.

Dorset Police's position

17. In its internal review response, Dorset Police confirmed that it held some information within the scope of the request but the amount of time it would take to locate, retrieve and extract that information would exceed the cost limit.

18. Dorset Police explained that any records which had been referred to it from the National Fraud Intelligence Bureau would be labelled as 'referral from Action Fraud'. Dorset Police confirmed that it held 696 records with this label.
19. Whilst it held 696 records labelled as 'referral from Action Fraud', Dorset Police explained that not all of those records relate to investigations. The 'referral from Action Fraud' label is also used for any safeguarding referrals Dorset Police receives as well as threat, risk or harm assessments. Therefore, in order to locate, retrieve and extract the requested information, Dorset Police would have to manually search the 696 records for information within the scope of the request. In terms of the size of any records, smaller records may be the equivalent of two or three pages of A4, whilst larger records can run to fifty or hundreds of pages.
20. Dorset Police estimates that it would be able to review 7 records per hour. Therefore, in total Dorset Police calculated that it would take 99.4 hours to review the 696 records ($696 / 7 = 99.4$). It explained that in order to review all 696 records for information within the scope of the request within the cost limit, it would have to review 38 records per hour. Dorset Police stated that it does not consider this to be achievable.

The Commissioner's position

21. The Commissioner considers Dorset Police's estimate of 99.4 hours to locate, retrieve and extract the requested information to be reasonable.
22. Dorset Police has estimated that it would take approximately 9 minutes to review each file for information within the scope of the request. Even if Dorset Police was to take only 5 minutes to review each file for information within the scope of the request, the cost of complying with the request would still be far in excess of the appropriate limit.
23. The Commissioner's decision is that Dorset Police estimated reasonably that to comply with the complainant's request would exceed the cost limit. Therefore, Dorset Police was correct to apply section 12(1) of the FOIA to the request.

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

24. Section 16(1) of the 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).

25. In its initial response to the request, Dorset Police advised the complainant that they could narrow the scope of their request.
26. Following receipt of an email from the complainant on 23 April 2021 in which the complainant asked Dorset Police for further advice on how to narrow the scope of their request, Dorset Police advised the complainant that they could narrow the scope of their request by reducing the timeframe of the request.
27. In its internal review response, Dorset Police advised the complainant that if they were to reduce the timeframe of their request to around 2 months, the cost of complying with the request would likely fall within the appropriate limit.
28. The Commissioner considers that this was an appropriate response in the circumstances given the broad timeframe of the original request. He is therefore satisfied that Dorset Police met its obligations under section 16(1) of the FOIA.

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

Right of appeal

29. 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

30. 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.
31. 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF