

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 14 June 2024

**Public Authority:** Chief Constable of Greater Manchester Police  
**Address:** GMP Headquarters  
Central Park  
Northampton Road  
Manchester  
M40 5BP

#### Decision (including any steps ordered)

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1. The complainant has requested information from Greater Manchester Police ("GMP") regarding people detained under UK immigration legislation. GMP relied on section 12 of FOIA (cost of compliance) to refuse the request.
2. The Commissioner's decision is that GMP was entitled to rely on section 12(1) of FOIA to refuse the request. The Commissioner finds that GMP complied with its section 16 obligation to offer advice and assistance.
3. The Commissioner also finds that GMP breached section 10(1) by failing to respond to the request within 20 working days.
4. The Commissioner does not require further steps to be taken.

#### Request and response

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5. On 31 October 2023, the complainant wrote to the public authority and requested information in the following terms:  
  
"How many people detained under UK immigration legislation powers have been held in your force's police cells from 01 January 2021 until 31 October 2023?"

Please disaggregate by police station and by length of detention, using the following lengths of detention:

- a. Up to 24 hours
- b. 24-48
- c. 48-72
- d. 72-96
- e. 96 - 120
- f. 120 hours plus

Of those held:

1. How many were released without restrictions?
2. How many were released on immigration bail?
3. How many were transferred to another place of detention?"

6. GMP requested clarification from the complainant on 20 November 2023, on the following terms:

"Please can you confirm do you mean specific immigration offences? Or offences that involve someone who was arrested under legislation that included immigration law?"

7. The complainant responded on 23 November 2023, in the following terms:

"I am sharing with you here the response I received to the same request from West Midlands Police, which I hope can assist you and the data holder in understanding how you might [fulfil] my request: [website redacted]

You will see that they used the Reason For Arrest Description: 'Immigration - Immigration Acts Offence' as a search criterion. They also provided an extensive table on Disposal Description.

I would appreciate if your Force would do the same, and if possible provide the data in the form of an Excel table."

8. On 3 January 2024, GMP responded. It relied on section 12 of FOIA to refuse the request – a position it upheld following an internal review.

## **Reasons for decision**

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### **Section 12 – cost of compliance**

9. The following analysis covers whether complying with the request would have exceeded the appropriate limit.

10. Section 12(1) of 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")
11. 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 GMP is £450.
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 the public authority.
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. 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 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 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.

### **The complainant's position**

17. The complainant explained that other forces had been able to provide the requested information without exceeding the cost limit. The complainant added that they found it difficult to understand why GMP's estimate was so high and would require the level of work outlined in their responses.

### **GMP's position**

18. GMP explained to the Commissioner that it had conducted searches on its electronic system in order to locate any information within the scope of the request. GMP explained that this was the quickest method available to gather the requested information.
19. GMP advised that despite its original search only locating 117 records, its most recent search has now located 72,843 records in total. GMP advised that it used the same search criteria in both searches, which was searching for the term 'Immigration' within 'Arrest Reason: Description' and refining all search results to requested period.
20. GMP advised that, due to the limited capabilities of its system, the records located are not easily retrievable and would need to be manually reviewed. To obtain the information pertinent to the request, for example, the lengths of detention in custody, it would be required to conduct a manual review of all records as its systems do not have the filter or tools to collate this data promptly.
21. GMP further explained that it was apparent that many of the results are duplicated and associated with Pre-Trial Issues files, but due to its systems limited capabilities, these duplications cannot be removed. It explained the only way to ascertain if the record is of relevance and not a duplication, is by manually reviewing each result.
22. GMP conducted a sampling exercise to confirm the estimated time that would be required to comply with the request. GMP advised that, on average, it would take 6 minutes to search, review and validate the data contained within one record. Meaning GMP would be required to spend an estimated total of 7,284.3 hours to comply with this request.

### **The Commissioner's view**

23. The Commissioner is satisfied that complying with this request would exceed the appropriate limit by a significant margin.
24. Although the Commissioner acknowledges that there is now a significantly higher amount of records which would be required to be reviewed in order to comply with the request, the Commissioner acknowledges that due to GMP's systems limitations, complying with the

request would clearly exceed the reasonable cost limit. The necessity for lengthy manual searches, twinned with the relatively broad nature of the request, add to the burden.

25. The Commissioner notes that, even if GMP was to spend half the estimated time on the request, this would still greatly exceed the appropriate cost/time limit.
26. As the Commissioner is satisfied that complying with the request would exceed the cost limit, he is also satisfied that GMP was entitled to rely on section 12(1) of FOIA to refuse the request.

## **Procedural matters**

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### **Section 16 – advice and assistance**

27. Section 16 of FOIA requires public authorities to provide reasonable advice and assistance to those making, or wishing to make, information requests.
28. When a public authority refuses a request because the cost of compliance exceeds the appropriate limit, it should explain, to the requester, how they could refine their request such that it would fall within that limit. In rare cases, it will be appropriate for the public authority to explain to the requester why their request cannot be meaningfully refined.
29. In this case, the GMP informed the requester the following:  
  
“the information that you are requesting will need to be reduced to a much shorter time period or a reduction in the volume of questions asked.”
30. The Commissioner is therefore satisfied that the GMP did comply with section 16 of FOIA when dealing with this request.

### **Section 10 – advice and assistance**

31. Section 1(1) of FOIA states that:  
  
“Any person making a request for information to a public authority is entitled –  
  
(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and  
  
(b) if that is the case, to have that information communicated to him.”

32. Section 10(1) of FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt”.
33. In the circumstances of this case, GMP failed to respond to the request within 20 working days and therefore breached section 10(1) of FOIA.

## Right of appeal

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34. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

35. 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.
36. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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