

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 21 June 2018

**Public Authority:** Commissioner of the Metropolitan Police Service

**Address:** New Scotland Yard  
Broadway  
London  
SW1H 0BG

### Decision (including any steps ordered)

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1. The complainant has requested from the Metropolitan Police Service (the "MPS") any statistical records, impact assessments and evaluations created and kept by its Counter Terrorism Internet Referrals Unit ("CTIRU"). Having initially found that the information was exempt, the MPS subsequently provided some information and advised that no further information was held.
2. The Commissioner's decision is that, on the civil standard of the balance of probabilities, no further information is held by the MPS. No steps are required.

### Background

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3. According to the MPS's website<sup>1</sup> in 2016:

*"The national Counter Terrorism Internet Referral Unit (CTIRU) works with Internet service providers (ISPs) to have extremist and terrorist material removed."*

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<sup>1</sup> <http://news.met.police.uk/news/250000th-piece-of-online-extremist-slash-terrorist-material-to-be-removed-208698>

*At the CTIRU's request, around 300 companies globally have removed material that includes; propaganda videos, pictures of executions and speeches calling for racial or religious violence.*

*Every day, officers from the CTIRU trawl the Internet, looking for material. They also investigate material that members of public and partners flag up to them through an online reporting system.*

*Officers then contact ISPs to request the removal of harmful material where it breaches their terms and conditions.*

*The CTIRU, based within the Metropolitan Police's Counter Terrorism Command, refers material to investigation teams nationally when it is identified that an offence may have been committed under the Terrorism Act or other legislation”.*

4. On the same page it also states:

*“The CTIRU was the first unit in the world set up to tackle the proliferation of illegal terrorist and violent extremist content on the internet.*

*The rise in extremist and terrorist propaganda has been met by counter terrorism policing through its work with communities and partners, and the CTIRU's proactive approach in tackling it.*

*On average, the CTIRU now instigates the removal of over 2,000 pieces of material a week. As of Wednesday, 21 December [2016] it had instigated the removal of approximately 249,091 pieces of material, which means it is on course to have 250,000 pieces removed by Christmas Day.*

*Every year the CTIRU receives more reports of material from concerned members of the public:*

*2010 and 2011 = 0 reports referred to the CTIRU;  
2012 = 1,167;  
2013 = 923;  
2014 = 1462;  
2015 = 2,995;  
Jan - 21 December 2016 = 2,239*

*Following referrals from the public, partners and its own investigations, the CTIRU has instigated the removal of more extremist and terrorist material year on year:*

*2010 and 2011 = 1,527 pieces of extremist and terrorist material removed from the web;*

2012 = 1,885;  
2013 = 17,541;  
2014 = 51,431;  
2015 = 55,556;  
Jan - 21 December 2016 = 121,151".

5. The MPS also advised the Commissioner that:

*"The internet community has been working for many years to combat the problem of online terrorism. In 2017, The Global Internet Forum to Counter Terrorism was set-up (website: GIFCT.ORG<sup>2</sup>) works [sic] to remove illegal terrorist content. The work of GIFCT and other Law enforcement bodies has assisted to remove illegal terrorist content from the internet. The CTIRU have no direct input with these organisations with reference to data".*

## Request and response

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6. On 18 June 2017 the complainant wrote to the MPS, via the "What do they know?" website<sup>3</sup>, and requested information in the following terms:

*"Can you please send me a list of statistical records, impact assessments and evaluations created and kept by the Counter Terrorism Internet Referrals Unit in relation to their operations".*

7. On 13 July 2017 the MPS wrote to the complainant to advise that it was considering the public interest in disclosure and required more time in which to do so. It cited the exemption at section 31 (law enforcement) of the FOIA as its basis for doing so.
8. On 2 August 2017 the MPS wrote to the complainant again to advise him that it required further information from him. It said:

*"Please accept my apologies for not contacting you sooner. After making enquiries with the CTIRU, we are unable to proceed with your request as we require further information from you.*

*I would be grateful if you could clarify what type of statistical records and evaluations you are referring to and any timeframe which might be applicable. Please note that the CTIRU publish data*

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<sup>2</sup><https://gifct.org/>

<sup>3</sup>[https://www.whatdotheyknow.com/request/ctiru\\_statistical\\_records\\_impact](https://www.whatdotheyknow.com/request/ctiru_statistical_records_impact)

*in relation to the work that they undertake and it is unclear what further statistical information you are seeking".*

9. The complainant responded saying:

*"I would like to know about statistical records and evaluations which are used for management purposes, to ascertain what volume of work you do, its accuracy and efficacy. For instance, you might keep records of items such as:*

- \* the numbers of accounts you close down per platform*
- \* the volumes of material per platform*
- \* the speed of responses at platforms*
- \* the numbers of rejections of requests by platforms*
- \* the amount of duplicate material that you encounter*
- \* the kinds of material you encounter, either by type, eg video, text, blog; or by content, eg violent, jihadi, ISIS, Al Qaida, and so on.*

*I would imagine these kinds of statistics would mostly be routinely collected, or else on an ad hoc basis, in order to inform yourselves about the impact of your programme of work. However, it is of course very hard for me to know precisely what kinds of assessment you make, which is why a list of them seems the best approach for a request. I also imagine that although the existence of such records would not be a security concern (eg, how many requests per platform) you may argue against the release of the statistics in some cases, which is why I am not asking for the statistics themselves.*

*In terms of time frame, I am interested in current policy. I would be most interested in a list of those statistical records you are currently keeping, maintaining or that it is your current internal policy to collect or produce".*

10. On 24 August 2017 the MPS responded to the complainant. It advised him that to release the requested information would breach sections 31(1)(a) (law enforcement) and 24(1) (national security) of the FOIA. It would also neither confirm nor deny whether it held any further information relevant to the request, citing section 23(5) (information supplied by, or relating to, bodies dealing with security matters).
11. On 21 September 2017 the complainant requested an internal review.
12. Following an internal review the MPS wrote to the complainant on 25 October 2017. It maintained its position.

13. During the Commissioner's investigation the MPS revised its position as outlined in paragraph 16 below. The complainant remained dissatisfied.

### Scope of the case

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14. The complainant initially contacted the Commissioner on 23 January 2018 to complain about the way his request for information had been handled. In clarifying his grounds of complaint the Commissioner advised as follows:

*"When requesting an internal review you refer to requiring: "... a list of statistics" and in your grounds of complaint to us you state that your request is: "for lists of documents, and not for the documents themselves or any content thereof". A list of statistics which are produced in the CTIRU is therefore the information that my investigation will focus on.*

*In your grounds of complaint you also provide arguments countering the application of sections 24 and 31 to the withheld information so I shall consider the application of these and whether or not the MPS is entitled to rely on either of them. You have not made any reference to 23(5) so I will not further consider this particular exemption.*

*Please contact me within the next 10 working days if there are matters other than these that you believe should be addressed..."*

15. No further contact was made, so these are the grounds on which the Commissioner based her initial enquiries.
16. During the Commissioner's investigation the MPS revised its position. Having reconsidered the wording of the request it found that no information is held and advised the complainant accordingly. It wrote to him, apologising for its previous position, and advised him as follows:

*"I contacted the Counter Terrorism Internet Referral Unit (CTIRU), which is part of the MPS Counter Terrorism Command, a specialist team set up to tackle the growing number of illegal terrorist and violent extremist content on the internet.*

*The CTIRU do not routinely produce statistics, analysis or evaluations due to the nature of their work. Broadly, their role is focused on identifying and removing content.*

*The outcome of my enquiries reveal the only report the CTIRU routinely produce is one statistic which does a count of the number of sites/content removed with a time period.*

*I would like to apologise for our original response and internal review and our shortcomings in that regard".*

17. Whilst it does not appear that any actual figures were provided to the complainant it is noted that the request specifically asks only for the types of statistics, analysis, etc, and not the figures themselves.
18. The Commissioner contacted the complainant again who confirmed that he remained dissatisfied. His further grounds of complaint were submitted on 5 April 2018 as follows:

*"... They are processing roughly 10,000 content takedowns a month, and they are now claiming that they make no general performance assessments, and collect no statistics relating their their [sic] work.*

*This seems pretty astounding, to be honest. Could you imagine a high profile department within the ICO making zero analysis of its work for instance?*

*So I think you should query this reply, to be doubly sure about it. For instance, have they performed any retrospective classification or analysis of their work? Have management consultants or external consultants looked at their work in order to produce any advice for them? Have they asked academics to do so? Are they really working completely in the dark?*

*Secondly, assuming this is all true, and there are no assessments or statistics, why did they not once but twice offer a well-argued and detailed blanket refusal without examining the facts of the matter? The object of internal review, for instance, is to make sure they are clear about their reasons for refusal. This should have involved a conversation with the unit's management and thereby flagged up that they simply did not have the information, and there was no point arguing in detail that it should not be released.*

*This may point to a serious procedural failure within their FoI process. For instance, perhaps FoI officers have been instructed that any request relating to CTIRU is to be refused on generic crime and national security grounds without genuine investigation. It would be a good idea to ask them how this has occurred as part of this complaint, and ask them to resolve it..."*

19. He subsequently added these further grounds on 6 April 2018:

*"My apologies for this additional information. We have previously collected some statements about CTIRU takedowns which have included some statistics and analysis:*

[https://wiki.openrightsgroup.org/wiki/Counter\\_Terrorism\\_Internet\\_Referral\\_Unit#Statistics](https://wiki.openrightsgroup.org/wiki/Counter_Terrorism_Internet_Referral_Unit#Statistics)

*"approximately 70% of CTIRU's caseload is Daesh related"*

<https://www.theyworkforyou.com/wrans/?id=2016-02-24.28422.h>

*"The unit makes 100 referrals a day related to Syria"*

<https://www.theyworkforyou.com/wrans/?id=2016-04-27.HL8061.h>

*These statements seem at odds with the idea that they hold no further statistics or analysis of their work."*

20. And, on 9 April 2018, he added:

*"There is one further point you should bring up:*

- *Do CTIRU use a software system to create and log their referrals?*
- *If so, does this software system include the ability to categorise, filter or tag referrals, and / or count these subdivisions?*

*Clarification on the software and logging systems used may help understand what statistics they might produce or be able to retrieve".*

21. The Commissioner accepts that how data is held may be relevant as to whether or not the requested information is held, eg whether it is capable of providing statistical or management information. However, she notes that the request is for: *"a list of those statistical records you are currently keeping, maintaining or that it is your current internal policy to collect or produce"* not for details of its IT capabilities. Therefore the Commissioner has not specifically considered the points raised in the paragraph above as these fall outside the scope of the request, ie they do not relate to 'lists' of statistics, etc, produced. If the complainant requires more specific information on this particular topic he would need to make a new information request.

22. The Commissioner will consider below whether or not the MPS holds any additional information falling within the scope of the request other than that provided in its response of 3 April 2018. Her comments regarding

the change of position from applying exemptions to them saying that no information is held are in 'Other matters' at the end of this notice.

## Reasons for decision

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### Section 1 – general right of access to information

23. Section 1 of the 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."*

24. In scenarios such as this one, where there is some dispute between the public authority and the complainant about the amount of information that may be held, the Commissioner, following the lead of a number of First Tier Tribunal decisions, applies the civil standard of the balance of probabilities.

25. In this case, the Commissioner has sought to determine whether, on the balance of probabilities, the MPS held the requested information at the time of the request.

26. In deciding where the balance of probabilities lies, the Commissioner will consider the searches carried out by the public authority, in terms of the extent of the searches, the quality of the searches, their thoroughness and results the searches yielded. She will also consider any other information or explanation offered by the public authority which is relevant to her determination.

27. The MPS believes it has now complied with the request as it has provided details of the one statistic which is produced by the CTIRU. It advised the Commissioner as follows:

*"I believe the MPS has responded to [the complainant]'s request for information ... as we informed him the Counter Terrorism Internet Referral Unit (CTIRU) produce ONE statistic. Should [the complainant] have further enquiries I believe he should submit a new request".*

28. In order to ascertain whether or not, on the balance of probabilities, this is correct, the Commissioner posed a variety of questions. In providing its response, the MPS confirmed that it had contacted the CTIRU directly

for its input. The Commissioner considers that, as the request is for a list of statistical records, impact assessments and evaluations created and kept by the CTIRU, this is the appropriate place to search for any information that may be held.

29. In order to further clarify matters the Commissioner's representative subsequently spoke to a case officer in the CTIRU who was personally responsible for its data and had been in position for over 3 years. In undertaking this role the case officer confirmed that he had provided 'ad hoc' statistical-type data to the Home Office and also to Senior Commanders at the MPS and that he is the appropriate point of contact for the provision of such figures. However, he advised that their provision had always been as a result of telephone enquiries and, when asked, he had provided approximate figures only. These had all been provided verbally. There is no recorded information held in the CTIRU regarding such figures.
30. During her investigation the Commissioner located a press release item on the MPS's website<sup>4</sup> which was published in April 2018. Although this post-dated the request under consideration here, she made enquiries regarding its content as it seemed to contain 'ad hoc' statistics which may have been created and kept by the CTIRU and therefore be the type of information which would be caught within the scope of the request.
31. The press release includes the following information about the CTIRU:

*"Around a quarter (481 = 26%) of all public referrals (1849) into the unit since March 2017 related to extreme right-wing material, although the vast majority of public referrals still relate to Islamist extremism.*

*In previous years the CTIRU has been focused on getting terrorist content removed from the Internet. But as their work and relationship with internet providers has developed to a point where more and more of the material is being removed automatically by the content providers themselves, the unit has been able to shift focus towards investigations.*

*As a result, over 226 counter-terrorism investigations across the UK have been supported or been provided with key evidence and information from the CTIRU".*

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<sup>4</sup> <http://news.met.police.uk/news/public-urged-to-report-suspicious-online-content-or-activity-301401>

32. In responding to her enquiries about these figures the CTIRU explained that:

- The data is thought to have been given as a result of a telephone call from the MPS press office; there is no recorded information to support this.
- If asked, the CTIRU can give a breakdown of the number of public referrals it has received. However, it is not able to break down percentage as 'right wing' or 'Islamist' so this figure was probably an estimate.
- The 226 figure would not be obtained from the CTIRU but from SO15 Ops Support who collate this data to show which units have worked on which investigations on a weekly basis.

33. The Commissioner also made further enquiries regarding any searches for information which had been undertaken within the CTIRU.

34. The case officer within the Unit explained that the CTIRU has one shared drive where all of its staff retain any CTIRU-related data. The staff do not store anything CTIRU-related on their personal drives. The case officer confirmed that he had searched all of this shared drive using the terms 'assessment', 'evaluation' and 'statistics' and had received no 'hits'. The Commissioner is satisfied that these search terms are those which would be most likely to locate any relevant information.

35. The CTIRU also has one shared mail box for all its email data. However, the case officer explained that this is only used for external communications with companies and hosting platforms so it would not contain the type of data being requested. Individuals do have their own mail boxes but these are only used for non-CTIRU work.

36. Although the complainant may think it is *"pretty astounding"* that the CTIRU does not itself produce data of the type that he is seeking, the case officer explained that there is no business requirement for the CTIRU to produce any statistics or management information such as suggested by the complainant.

37. Having considered the MPS's response, and on the basis of the evidence provided to her, the Commissioner is satisfied that, on the balance of probabilities, the MPS does not hold any further information. The Commissioner therefore considers that the MPS complied with its obligations under section 1(1) of the FOIA.

## Other matters

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### ***Internal review***

38. The complainant has also expressed dissatisfaction with the MPS's change in position from initially claiming exemptions to subsequently finding that no information is held other than one statistic which was disclosable. Having been advised of the change by the MPS he said to the Commissioner:

*"... assuming this is all true, and there are no assessments or statistics, why did they not once but twice offer a well-argued and detailed blanket refusal without examining the facts of the matter? The object of internal review, for instance, is to make sure they are clear about their reasons for refusal. This should have involved a conversation with the unit's management and thereby flagged up that they simply did not have the information, and there was no point arguing in detail that it should not be released".*

39. The Commissioner considers this oversight on behalf of the MPS to be as a result of a poorly conducted internal review. There is no statutory requirement to conduct an internal review under the terms of the FOIA (which is why it has been considered under 'Other matters'), however, such a provision does apply under the Environmental Information Regulations 2004 (EIR) and the Commissioner considers it best practice to adhere to the same principles when conducting an internal review under the terms of the FOIA<sup>5</sup>.

40. Within her guidelines on internal reviews under the EIR the Commissioner considers that the review procedure should involve a thorough re-examination of the original decision and handling of the request and that it should be genuinely possible to have a previous decision amended or reversed.

41. Clearly on this occasion the review was not adequate as it failed to identify that only a small amount of disclosable information was actually held, the thorough re-examination therefore only taking place during the Commissioner's investigation. Had the request been properly reconsidered at internal review this may have resulted in earlier resolution without the requirement for a complaint to the Commissioner.

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<sup>5</sup> [https://ico.org.uk/media/for-organisations/documents/1613/internal\\_reviews\\_under\\_the\\_eir.pdf](https://ico.org.uk/media/for-organisations/documents/1613/internal_reviews_under_the_eir.pdf)

## Right of appeal

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42. 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](mailto:GRC@hmcts.gsi.gov.uk)

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

43. 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.
44. 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** .....

**Carolyn Howes**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
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**Cheshire**  
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