

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 January 2019

Public Authority: Norfolk Constabulary Police Headquarters

Address: Falconers Chase
Wymondham
Norfolk
NR18 0WW

Decision (including any steps ordered)

1. The complainant requested information relating to a solvability algorithm model utilised to help Norfolk Constabulary solve burglary crimes. Norfolk Constabulary provided part of the information (specifically how many burglary cases had been analysed by the solvability algorithm) but refused to provide the remainder under section 12(1) of FOIA, as to do so would exceed the appropriate cost and time limit.
2. The Commissioner's decision is that Norfolk Constabulary is not obliged to comply with the remainder of the request under section 12(1) of FOIA. However, in this case she finds that Norfolk Constabulary breached section 16 of the FOIA by failing to provide any advice and assistance to the complainant to suggest how he may refine the request.
3. No steps are required to ensure compliance with the legislation.

Background

4. Norfolk Constabulary has explained that a 'solvability model' looks at what factors correlate with a crime being 'solved' and that using it allows the police to use resources more efficiently.
5. It said that the model, which is the subject of this request, was built on an initial analysis of three years (April 2012 to May 2015) of Norfolk burglary data (including both dwellings and non-dwellings eg sheds, garages, commercial premises etcetera).

6. The analysis led to the identification of 33 'solvability' factors, which if present, increased the likelihood of a burglary offence being solved. It also identified nine case limiting factors, which if present, decreased the likelihood of the burglary offence being solved.
7. Logistic regression was then used to assess the relationship between each variable and the outcome of the burglary offence.
8. The final model incorporated 29 factors which may be used to assess the likelihood of a burglary offence being solved.
9. The Commissioner understands that the model was developed by an academic from the University of Cambridge, under the police academic consortium – the Better Policing Collaborative (BPC). The BPC also ran a trial at the force, which commenced in January 2018, and will be writing a final report. The first six weeks of the trial were run by members of the Constabulary's Improvement and Evaluation department, before being handed over to the Cambridge academic.
10. Norfolk Constabulary advised that the algorithm is not used to decide whether or not a burglary offence is investigated as all offences receive an initial investigation. The decision of the algorithm is taken after the point of the initial investigation and is used to decide whether the offence should be allocated for further investigation or filed.
11. In addition, Norfolk Constabulary has explained that there are a number of factors which lead to mandatory allocation from the model, regardless of the presence of other factors – these include aggravated burglaries, burglaries involving GBH (grievous bodily harm), or those where a suspect has been arrested.
12. It highlighted that the request under consideration refers to an ongoing randomised controlled trial which was used to test the model in a live environment. It stated that cases are subject to an initial investigation, and the evidence gained from this investigation is reviewed and put into a database. The cases are randomly allocated to either test (model making the decision), or control (Investigations Management Unit 'IMU' making the decision), before the IMU then quality assures all investigations and allocates or files the cases. At the point of the request, the trial was not complete (it finished at the end of October 2018). All cases will then be given a reasonable time period to be solved in order that the performance of the model can be accurately established. It is expected that full results will be available in Spring 2019.

Request and response

13. On 4 September 2018, the complainant wrote to Norfolk Constabulary and requested information in the following terms:

"Under the terms of the Freedom of Information Act 2000, please provide me with full answers to each of the following questions:

- 1. How many burglary cases have been analysed using the 'solvability algorithm' developed for your force by the University of Cambridge, since January 2018?*
- 2. Of these, in how many cases did the algorithm conclude that the crime should not be investigated further?*
- 3. And in how many of these cases did the reviewing officer decide that the crime should in fact be investigated further?*
- 4. In how many of the cases in Q3 has a suspect been arrested/questioned?*
- 5. Please supply a list of the 29 factors that the solvability algorithm considers*
- 6. Please also supply any reports on the operation of the algorithm*

Please respond within 20 working days."

14. Norfolk Constabulary responded on 1 October 2018. It responded to part one of the request, but refused to provide the remainder of the requested information on the basis of the cost of compliance, section 12(1) of FOIA.
15. On 2 October 2018 the complainant requested an internal review, which Norfolk Constabulary carried out on 26 October 2018. It maintained its original position.

Scope of the case

16. The complainant contacted the Commissioner on 26 October 2018 to complain about the way his request for information had been handled.
17. The Commissioner has considered whether Norfolk Constabulary was entitled to rely on section 12(1) to refuse to comply with the remainder of the request.
18. She has also considered whether Norfolk Constabulary has fulfilled its obligations under section 16 of FOIA.

Reasons for decision

Section 12(1) – cost of compliance exceeds the appropriate limit

19. Section 1(1) of FOIA states that:

"(1) 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."

20. Section 12(1) of FOIA states that:

"Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit."

21. The Fees Regulations set the appropriate limit at £450 for Norfolk Constabulary; they also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that the appropriate limit for the force equates to 18 hours.

22. In estimating whether complying with a request would exceed the appropriate limit, regulation 4(3) states that an authority can only take into account the costs it reasonably expects to incur in:

- a. determining whether it holds the information;
- b. locating the information, or a document containing it;
- c. retrieving the information, or a document containing it; and
- d. extracting the information from a document containing it.

23. The Commissioner initially notes that Norfolk Constabulary provided the information requested in part one of the complainant's request but refused to provide the remainder on costs grounds. Her guidance¹ states:

¹https://ico.org.uk/media/1199/costs_of_compliance_exceeds_appropriate_limit.pdf

"As a matter of good practice, public authorities should avoid providing the information found as a result of its searching and claiming section 12 for the remainder of the information. It is accepted that this is often done with the intention of being helpful but it ultimately denies the requestor the right to express a preference as to which part or parts of the request they may wish to receive which can be provided under the appropriate limit."

24. However, in this case the Commissioner considers it reasonable that Norfolk Constabulary told the complainant how many burglary cases had been analysed using the solvability algorithm because, from this overall figure, the actual number of cases in scope of the request is derived.

Can the remaining parts of the request be aggregated?

25. During the course of the Commissioner's investigation, Norfolk Constabulary said it had considered all parts of the request together. Section 12(4) of FOIA can be engaged where one person makes two or more requests. It allows for the aggregation of these requests for the purpose of calculating costs in circumstances which are set out in Regulation 5 of the Fees Regulations. This Regulation provides that multiple requests can be aggregated where two or more requests relate, to any extent, to the same or similar information.
26. Given the effect of section 12(4), the Commissioner first considered whether the complainant's request of 4 September 2018 constituted a single request with multiple elements or multiple requests. The Information Tribunal considered a similar issue in *Fitzsimmons v ICO & Department for Culture Media and Sport* [EA/2007/0124]².
27. Taking the Tribunal's decision in *Fitzsimmons* into consideration, the Commissioner would characterise the complainant's request as containing multiple requests within a single item of correspondence.
28. Having established that the complainant has made multiple requests in a single letter, the Commissioner went on to consider whether those requests could be aggregated for the purpose of calculating the cost of compliance. The Commissioner notes that all parts of the request relate to the use of a solvability algorithm model by the Constabulary and therefore relate to a similar subject matter. The Commissioner has therefore concluded that it is reasonable for them to be aggregated for

²<http://informationrights.decisions.tribunals.gov.uk//DBFiles/Decision/i242/Fitzsimmons.pdf>

the purpose of calculating the cost of compliance because they follow an overarching theme.

29. Having reached this conclusion, the Commissioner will next consider the application of section 12(1). In determining whether Norfolk Constabulary has correctly applied section 12 of FOIA in this case, the Commissioner has considered Norfolk Constabulary's rationale provided to her during the investigation.

30. In relation to the trial procedure, Norfolk Constabulary explained that, on a daily basis, an extract of all Norfolk burglary offences was taken out of Athena (its crime and investigations reporting system) and imported into the tool used to run the algorithm.

31. It advised that a clear 24 hours was left between the burglary offence being reported and it being put through the algorithm. This was to allow enough time for the initial investigations to take place in order to be able to answer the questions asked by the algorithm.

32. In order to answer the questions posed by the algorithm, Norfolk Constabulary has explained it was necessary to access three different systems for each case:

- Athena (for the crime record). Athena is the information asset upon which investigations and crimes are recorded and contains records of the investigation.
- STORM Command and Control (to confirm police attendance). STORM is the information asset used to record the initial call to the Constabulary and is used to allocate attending resources.
- SOCWEB – this is the information asset used to record the outcomes of Crime Scene Investigations (CSI).

33. Every case was run through the algorithm, but at the point of completing the questions, the tool then randomly allocated the offence for the IMU to decide on whether to file or allocate, or for the decision to be guided by the outcome of the algorithm. The crime record was then updated accordingly with one of the following, for action by the IMU:

- IMU decision
- File under Op Burdock 18 (operational name for the trial)
- Allocate under Op Burdock 18

34. Norfolk Constabulary has explained that there were 1703 burglaries in scope of the request. It said:

"All burglary cases in Norfolk were put through the algorithm for the duration of the trial, however for the purposes of the trial, each was randomly allocated for the decision to file or allocate to sit with the IMU or with the algorithmic model. At the point of

request, the trial had not quite finished, but at that point, 1,703 cases had been through the model, and 971 had been randomised into the model decision category, rather than the IMU."

35. At the time of the request, Norfolk Constabulary confirmed that of the 971 cases where the model made the decision to file or allocate, the model decided to file the case on 362 occasions.
36. Norfolk Constabulary said that in order for it to answer parts (3) and (4) of the request, each of those 362 cases would need to be reviewed to find out whether (a) the decision of the model had been overturned, and (b) in how many cases a suspect had been arrested / questioned.
37. Norfolk Constabulary stated that a conservative estimate of the time taken to review each of those 362 cases is five minutes per case.
38. Whilst all the requested information is available and accessible electronically, it said the requested information is contained within the free-text of a crime record, which would need to be reviewed to definitively answer the questions posed.
39. It explained that each case would initially need to be opened in the system and would then require navigation between crime free text screens and custody screens. It would then be necessary to read through all the text in order to locate the information required to answer the questions.
40. The Commissioner asked Norfolk Constabulary to provide further details in relation to its estimate. It replied as follows:

"I have selected a sample of ten cases from the original list of 362 and applied the manual review process required to locate the information requested.

After logging into the investigation asset, Athena, recording the reason for the search and a reference number, the following process would be required:

- *Inputting the Investigation Reference number. Click on 'Search'.*
- *Selecting the Investigation from the row returned by the search. Double-clicking on the row.*
- *This opens the Investigation Record and automatically opens on the Investigation Dashboard.*
- *A manual review of the information present is required and to identify if a suspect has been identified.*
- *Click on the 'Log Tab' and review the information displayed to identify if any requested information is held in the Logs.*

- *Click on the 'Full Tab' which provides detailed information on the lifecycle of the Investigation. Review the information displayed to identify if any requested information is held.*
- *Update spreadsheet with the outcome.*

Of the ten sampled, I was able to locate the information required on eight investigations following the above process. On average this process took two minutes and five seconds. On two of the Investigations (20%), to obtain the information requested further work would be required. For example, the applicant asks how many of the cases has a suspect been arrested/questioned. In this specific Investigation there are links to two other Investigations, a suspect was identified but the record does not state whether or not the suspect was interviewed in relation to the specific investigation. To obtain the information the Interview Record would need to be requested, located by a colleague in another department, posted and then manually reviewed to identify if the individual was questioned about that specific investigation. Without going through that process it is not possible to determine how long that process could take. It would depend on the length of the interview and it may be that the whole Interview would have to be reviewed to provide the information or to identify that the information is not held. The second Investigation that would require further work would be to question a department of the work they were allocated. The department will need to locate and review any information they hold on the specific Investigation to be able to locate the information, if held.

362 cases would be subject to manual review. According to the samples 20% of the 362 would require additional work, that is 72 cases. To complete the additional work when averaged out across all 362 cases would be approximately five minutes per case, if not higher."

41. Extrapolating the sample would mean that 80%, or 290 of the 362 cases, (in scope at the point of the request), would take on average two minutes and five seconds per case. Norfolk Constabulary said that the remaining 20% or 72 cases would take *at least* five minutes per case.
42. Based on the above, the 290 cases at two minutes and five seconds would take 604 minutes, ie 10.07 hours and the 72 cases at five minutes would take 360 minutes, ie 6 hours. This equates to a total of 16.07 hours for parts (3) and (4) of the request, which would fall within the cost limit.
43. Accordingly, the Commissioner contacted Norfolk Constabulary for further detail about the estimate and also to clarify why it had reached

an average figure of five minutes per case across all 362 cases, given that for 290 it had estimated that it would only two minutes and five seconds. It explained that of the 72 cases which would require further interrogation, many will take at least 20 minutes if not more. It said that it considers the two cases in its sample would fall into this category (as set out in the quoted section at paragraph 40 above).

44. In support of its view that 20 minutes is reasonable, it explained that many cases, including where there have been multiple burglaries, will have a DVD recording of the suspect's interview. In order to answer the complainant's question as to whether the suspect has been questioned about the alleged burglary, Norfolk Constabulary would need to determine whether information is held and, if so, request the DVD. If there is no 'working copy' of the DVD, it would need to go through the procedure to open and close the secured evidence to obtain the DVD. It would then need to watch the DVD, the length of which varies, dependant on how the suspect responded (for example, a 'no comment' interview is likely to be shorter), and dependant at what point in the interview the suspect was questioned about the burglary itself.
45. Norfolk Constabulary told the Commissioner that, based on an estimate of 20 minutes for the 72 cases, this process alone would exceed the cost limit. Taking 72 cases at 20 minutes per case = 1440 minutes = 24 hours. It said that it had included this calculation to reach its position that across all 362 cases would take an average of five minutes per case. The Commissioner has calculated this overall average herself using 72 cases at 20 minutes, ie 1440 minutes, plus 290 cases at two minutes five seconds, ie 604 minutes, which totals 2044 minutes. Dividing this figure by the total 362 cases equates to 5.6 minutes per case, ie 33.8 hours in total.
46. It also highlighted that, for the first six weeks of the trial, whilst the Constabulary's internal Improvement and Evaluation team were running cases through the algorithm, timings taken to put each case through the algorithm were recorded which were on average 10 minutes per case, of which most time was spent reviewing the Athena Record free text.

Conclusion

47. From the information provided, the Commissioner has concluded that Norfolk Constabulary's estimate is reasonable and that it was entitled to rely on section 12 for parts two to six of this request.

Section 16 – duty to provide advice and assistance

48. Section 16 of FOIA states:

"(1) It shall be the duty of a public authority to provide advice and assistance, so far as would be reasonable to expect the

authority to do so, to persons to propose to make, or have made, requests for information to it.

(2) Any public authority which, in relation to the provision of advice or assistance in any case, conforms with the code of practice under section 45 is to be taken to comply with the duty imposed by subsection (1) in relation to that case."

49. Paragraph 14 of the section 45 Code of Practice³ states:

"Where an authority is not obliged to comply with a request for information because, under section 12(1) and regulations made under section 12, the cost of complying would exceed the 'appropriate limit' (i.e. the cost threshold) the authority should consider provide an indication of what, if any, information could be provided within the cost ceiling. The authority should also consider advising the applicant that by reforming or re-focussing their request, information may be able to be supplied for a lower, or no, fee."

50. The Commissioner's view is that, where a public authority refuses a requests under section 12(1) of FOIA, section 16(1) creates an obligation to provide advice and assistance on how the scope of the request could be refined or reduced to avoid exceeding the appropriate limit.

51. The Commissioner's guidance states that where it is reasonable to provide advice and assistance in the particular circumstances of the case, the minimum a public authority should do in order to satisfy section 16 is:

- either indicate if it is not able to provide any information at all within the appropriate limit; or
- provide an indication of what information could be provided within the appropriate limit; and
- provide advice and assistance to enable the requestor to make a refined request.

52. Norfolk Constabulary did not provide any advice or assistance to the complainant. It told the Commissioner that:

³https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/235286/0033.pdf

"The nature of the request is not in relation to a time period but rather a volume of information. Therefore the Constabulary could not identify suitable advice and assistance that could be offered that would reduce the amount of time it would take to provide the requested information."

53. Norfolk Constabulary did not advise the complainant that it had considered its section 16 obligations but could not identify suitable advice and assistance. Its response regarding section 12 was also less detailed than what was subsequently provided to the Commissioner.
54. In failing to provide any advice and assistance, Norfolk Constabulary has breached its section 16 obligations.
55. As explained above, Norfolk Constabulary is not obliged to answer any part of the request if the costs exclusion applies and, as in this case, where there is an overarching theme this means all parts of the request can be aggregated.
56. As there is now sufficient detail about how the cost limit is exceeded in this case the Commissioner has not ordered any steps. However, the complainant may now wish to submit a refined request based on the further information which is now available in this decision notice.

Right of appeal

57. 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

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

58. 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.
59. 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
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