

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 20 June 2023

**Public Authority:** Commissioner of Police of the Metropolis  
**Address:** New Scotland Yard  
Broadway  
London  
SW1H 0BG

#### **Decision (including any steps ordered)**

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1. The complainant has requested a Serious Sexual Offences Problem Profile ("the profile") from the Metropolitan Police Service (the "MPS"). The MPS refused to provide the profile, citing sections 30(1)(a) (Investigations and proceedings), 31(1)(a)(b) (Law enforcement), 38(1)(a)(b) (Health and safety) and 40(2) (Personal information) of FOIA.
2. The Commissioner's decision is that the MPS breached section 10(1) of FOIA by failing to respond to the request within the statutory time limit. He also finds that the exemptions have been applied 'blanket fashion' to the profile in its entirety and that the majority are not properly engaged. However, the Commissioner does find that the profile contains some personal information which may be withheld under section 40(2) of FOIA.
3. The Commissioner requires the MPS to take the following steps to ensure compliance with the legislation:
  - Disclose the report other than that information which is exempt under section 40(2). (This information is highlighted in a separate confidential annex that is provided to the MPS only.)
4. The MPS must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Background

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5. The MPS has advised the Commissioner:

“The MPS can confirm we hold one report which comprises of 29 pages. The document contains tables, charts, maps, references, problem profiles, strategic assessments created as an intelligence product for the MPS. The report has a clear framework of analysis of information and intelligence for allowing a problem solving approach to law enforcement and crime prevention. The aim is to identify the issues and find ways to deal with the problem.

The report covers key areas of concern for example identified and named venues, provides a detailed analysis regarding description of victim profiles and suspects. Names schools, areas for offences, venues for repeat locations, street names, hotel names, names of entertainment venues, names of mini cab companies, locations of sex workers, gaps and recommendations.

The sensitive information contained within the report was not created or intended for public release as the information includes tactical elements as well as data and information relating to very specific areas, locations, and demographics which could also identify victims”.

## Request and response

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6. On 15 October 2022, the complainant wrote to the MPS and requested the following information:

“Please provide a copy of the MPS Pan London Serious Sexual Offences Problem Profile, as set out in your response to [an earlier request]”.

7. On 19 December 2022, the MPS responded. It refused to provide the requested information, citing sections 30(1)(a), 31(1)(a)(b), 38(1)(a)(b) and 40(2) of FOIA.

8. The complainant requested an internal review on 20 December 2022. He said that the report should not be withheld ‘blanket fashion’ and that redactions would be more appropriate, as had been done with similar reports on other occasions. He added that:

“There is a clear public interest in transparency around how the Metropolitan Police handles this crime area. Concerns have been raised about low charge or summons rates in these crime areas,

and understanding what issues the Metropolitan Police are facing in this area could inform a current area of public debate”.

9. The MPS provided an internal review on 14 February 2023, in which it maintained its original position.

## **Scope of the case**

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10. The complainant contacted the Commissioner on 21 February 2023 to complain about the way his request for information had been handled. His detailed grounds of complaint included the following:

“The force highlights the need to prevent the mosaic identification of victims. That is perfectly reasonable, and it is inevitable that some redaction of this report will be required.

However, it is only likely to apply to a very limited portion of information in the report, such as names, or highly specific case studies.

The force argues that “data linkage techniques” and “potential matchable information” pose identification risks. This kind of issue simply does not apply to sections of the report concerning force performance issues for this crime type, or improvement recommendations, which large parts of a problem profile report consists of.

Even a “motivated intruder” would not be able to identify individuals from this kind of information which does not draw from individual cases.

... The force also cites section 38, saying that if victims could identify themselves in a disclosure, it would risk distress that is of “real, actual and of substance”. The section 38 issues tie in to those issues raised under section 40.

If information is properly redacted, with detailed descriptions of the sexual offences removed, the material that remains is vanishingly unlikely to have this effect.

... Other forces when disclosing similar reports have provided reports including sections such as “intelligence gaps” and “key findings” and “recommendations” in full or nearly in full. I’d be happy to provide examples on request.

Redactions have to be justified on a case by case basis, and for general issues, such as force shortcomings, the public interest in transparency and accountability outweigh generic concerns.

It is not sustainable to suggest the disclosure of a properly redacted report would have the effect of impacting victims by making it "appear that we cannot handle sensitive crime related information". The force must assure itself it has redacted a document properly when it disclosed it under FOI, but this is no reason for blanket redaction of everything "just in case".

In terms of section 30, another exemption cited by the force, large portions of all information held by the police is likely to have been held by the police "for the purpose of investigations" at some point, and potentially exempt.

However, where information is used to provide statistical or thematic analysis of force performance, it is highly unlikely that disclosure would have any practically prejudicial effect on current or former cases, and the public interest in accountability and transparency outweighs non-disclosure.

... The force also cites section 31, claiming that disclosure could allow criminals "to gain a greater understanding of the MPS' methods and techniques, enabling offenders to take steps to counter them".

In general, the most important sections of problem profiles previously disclosed to me have shown shortcomings by police forces in handling sensitive crime areas.

...There is a clear public interest in transparency around these sections both to hold police to account, to check they are putting in place policies to take recommendations forward, and to highlight to partner agencies where improvements can be made.

Transparency can also allow the sharing of learnings from one public body more widely, in the hope of preventing similar failures elsewhere.

These are not sections relating to specific police tactics or operations, or individual cases or crimes, which could potentially have the effects asserted by the Met.

... The Met Police itself previously disclosed a copy of its problem profile in relation to child sexual exploitation, an equally sensitive document with redactions, attached for reference. While slightly

less recent, the redacted version did include useful public interest information, and fed into reporting on the topic.

More generally, there is a clear and elevated public interest in transparency in relation to the Metropolitan Police. There is widespread concern about its approach to handling crimes against women, after the recent cases of officers Wayne Couzens, David Carrick and a number of others who have committed sexual offenses [sic] whilst in the employ of the force.

As such, it is important that the force be open about how it handles crimes against women, and is open about any shortcomings, to reassure the public that it is committed to learning from them and improve its case handling, as well as to allow itself to be held accountable if those recommendations are not carried forward in the way expected by the public.

...I am concerned with the force's blanket refusal, after an extensive and unreasonable delay to the processing of this request.

...This could be out of hope that information that could be potentially embarrassing to the force will be delayed to the point it is less relevant, or hoping the requestor gives up and withdraws the request due to extensive process delay. Adding extensive further investigation delay to this would further prejudice my interests as a reporter attempting to fulfil my public watchdog role. That also raises concerns about potential applicant blindness issues, given my role as a reporter".

11. The Commissioner will consider timeliness and the application of exemptions to the request below.
12. The Commissioner has not considered the application of section 40 as the complainant has indicated that he is happy for personal information to be withheld. The Commissioner has determined what he considers to be personal information, which will be relayed to the MPS with this notice.
13. The Commissioner has viewed the withheld information.

## Reasons for decision

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### Section 1 – General right of access

#### Section 10 - Time for compliance

14. Section 1(1) of FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
15. Section 10(1) of FOIA provides that a public authority should comply with section 1(1) within 20 working days. Section 1(1)(a) initially requires a public authority in receipt of a request to confirm whether it holds the requested information.
16. The request was submitted on 15 October 2022 and the complainant did not receive a response, which confirmed that the public authority was in possession of the relevant information, until 19 December 2022. The Commissioner therefore finds that the MPS has breached section 10(1) by failing to comply with section 1(1)(a) within the statutory time period.

### Section 30 – Investigations and proceedings

#### Section 31 – Law enforcement

17. The MPS has cited sections 30(1)(a) and 31(1)(a)(b) to cover the profile in its entirety. However, these exemptions are mutually exclusive and cannot be cited to cover the same information. Section 31 can only be applied to withhold information which is not otherwise exempt under section 30.

18. In respect of section 30, the MPS advised the complainant:

“The [internal] review can advise that in this case Section 30(1)(a) of the Act is engaged as the information requested relates to investigations, which the MPS has had a duty to conduct with a view to it being ascertained whether a person/s should be charged with an offence/s, or whether a person/s charged with an offence/s is guilty of it.

... The MPS will only disclose information concerning investigations when it considers that no harm will be caused to the investigative process or any individual involved in the investigation. As with all investigations, it is of paramount importance that the response to a Freedom of Information request does not disrupt or have any negative impact on that investigation. Clearly, such disruption to an investigation would not be in the best interests of the public”.

19. In respect of section 31 the MPS advised the complainant:

"The MPS has a statutory role in investigating criminal offences and deploys a range of tactics, strategies and investigative techniques to do so. Disclosure of the requested information would, in this case, provide the public with an in depth knowledge of the tactics and plans used by the MPS to combat serious sexual offending and its known links to organised crime and sexual exploitation. Additionally, disclosure would place into the public domain intelligence held and any perceived intelligence gaps. This would be harmful, as this would inform the offender of tactical capabilities, strategies and intelligence available to the MPS in investigating criminal offences and would compromise the police service function of the prevention and detection of crime. The risk of harm is heightened as the information you seek is broken down by defined areas of London and provides detailed information on how serious sexual offences are carried out. Such disclosure would not support victims of crime and / or prevent crime".

20. As stated above, the two exemptions the MPS has cited are mutually exclusive. The MPS has not argued that each exemption is being applied separately, to withhold different items of information; rather, it has applied its rationale for each exemption to the document as a whole, in a 'blanket fashion'.
21. The Commissioner considers that the MPS has had ample opportunity to set out its position regarding the request. Furthermore, he is of the view that it should be adequately conversant in the application of both of these exemptions, with them being relevant to much of its core business of policing. However, on this occasion it has failed to differentiate between the two and has simply applied them both to the entire profile.
22. It is not for the Commissioner to speculate or 'fill in the gaps' for inadequate submissions and it is not the Commissioner's role to go through the withheld information in this case to consider whether section 30 or 31 is the most appropriate exemption to apply to the various pieces of information. Accordingly, the Commissioner's decision is that the MPS has not demonstrated that either exemption is properly engaged.

### **Section 38 – Health and safety**

23. The MPS has cited sections 38(1)(a)(b). It has not explained which parts of the profile these have been applied to.
24. As with the exemptions above, the Commissioner considers that the MPS has had ample opportunity to set out its position regarding the request. Also, again as with the above exemptions, it has cited section 38 in respect of all of the withheld information.

25. The Commissioner has already accepted that any personal information may be properly withheld under section 40. Therefore, he does not consider section 38 is likely to be of any relevance to the profile as it is factual and particular individuals will not be identifiable.
26. As with the application of sections 30 / 31 above, it is not for the Commissioner to speculate or 'fill in the gaps'. The exemption has again been applied in a 'blanket fashion' and it is not the Commissioner's role to go through the withheld information and consider whether section 38 is appropriate; this is for the MPS to have already done.
27. Accordingly, the Commissioner's decision is that the MPS has not demonstrated that section 38 is engaged.
28. The MPS must now take the action at paragraph 3, above.

### **Other matters**

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29. Although they do not form part of this notice the Commissioner wishes to highlight the following matters of concern.

### **Internal review**

30. The Commissioner cannot consider the amount of time it took a public authority to complete an internal review in a decision notice because such matters are not a formal requirement of FOIA. Rather they are matters of good practice which are addressed in the code of practice issued under section 45 of FOIA. However, the Commissioner has issued guidance in which he has stated that, in his view, internal reviews should take no longer than 20 working days to complete, and even in exceptional circumstances the total time taken should not exceed 40 working days.
31. In this case, the internal review was completed within 37 working days. However, that amount of time should only be necessary in exceptional cases. The Commissioner does not consider this case to be exceptional.
32. As shown above, the exemptions have been applied 'blanket fashion'. The Commissioner does not accept that the size of the profile, along with the consideration and application of exemptions in this way, should have required any longer than the recommended 20 working days.
33. The Commissioner expects the MPS to ensure that the internal reviews it handles in the future adhere to the timescales he has set out in his guidance. The delay will be noted for monitoring purposes.



## 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.

**Signed .....**

**Carolyn Howes**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**