

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 November 2023

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

Decision (including any steps ordered)

1. The complainant has requested costing and general information about events held in Gunnersbury Park from the Metropolitan Police Service (the "MPS"). The MPS advised that it was unable to comply with the request as to do so would exceed the appropriate limit in section 12(1) (Cost of compliance) of FOIA.
2. The Commissioner's decision is that the MPS was entitled to rely on section 12(1) to refuse the request and that it complied with its duties under section 16 (Advice and assistance). However, as the MPS responded late, he finds breaches of sections 1(1) (General right of access) and 10(1) (Time for compliance) of FOIA. No steps are required.

Request and response

3. On 25 April 2023, the complainant wrote to the MPS and requested the following information:

"Did the Met Police experience increased demand during events held by Gunnersbury CIC in Gunnersbury park within Hounslow and Ealing councils from 2019 to 2023?

How much additional demand was associated with each event – specifically:

- Number of people using your service?
- Number of calls taken?
- Number of incidents responded to?
- Number of violent incidents?
- Number of injuries sustained by any means?

How much additional resourcing was required in terms of:

- Preparation & planning?
- Extra staffing?
- Capacity measures?
- Infrastructure improvements?

Did the Met Police have concerns about the safety of either event for:

- Festival attendees?
- Local residents?
- Other park users?

What was and is the estimated cost for the current year to the Met of meeting the additional demands created by:

2019

Lovebox 12 -13 Jul 2019

2022

Soho house Festival 29 June-14 July 2022

Gunnery Live! 4-27 August 2022

Waterworks 5-23 Sep 2022

2023

Soho House Festival 05- 08.07.2023

Festival Republic 11 Aug 2023

Waterworks 16-17.09.2023".

4. On 8 July 2023, the MPS responded. It refused to provide the requested information as it said to do so would exceed the cost limit at section 12 of FOIA.
5. The complainant requested an internal review on 8 July 2023. They said:

"It is truly upsetting that the London Met has decided to reject the request after being extremely late and not adhering to the 20 working days as stipulated by law. Please note the London Fire Brigade, TFL and Ambulance Service all responded in full in a timely

manner to the same request thus it is clear your estimation of resource is false and purposefully high in order to avoid responding. This is not the high standards we expect from those who are meant to protect and serve. Thus please consider this a formal request for a formal review.

We will simplify the request so you have no option but to respond this time:

Please provide number of call outs and associated costs for the following events:

2022

- Soho House Festival: 29 June-14 July 2022
- Gunnersbury Live!: 4-27 August 2022
- Waterworks: 5-23 Sep 2022

Please note if you choose to still refuse this request we will report this to ICO and your failure to reply will also be part of any legal challenge local residents choose to bring forward against Gunnerbury [sic] CIC, Hounslow and Ealing councils and any of the emergency services involved including the London Met.

Extremely disappointed in your lack of care and refusal to carry out your legal duties”.

6. The MPS provided an internal review on 15 July 2023 in which it maintained its position.

Scope of the case

7. The complainant contacted the Commissioner on 16 July 2023 to complain about the way their request for information had been handled. They complained about the length of time taken to respond and also said:

“... the exact same request was answered by both the ambulance service, fire brigade and TFL without them estimating it will be "too costly". We then revised the request making it smaller for the review and they still did nothing but spend more time writing out a refusal than it would have taken to just respond. We believe this is due to the fact there is a known drug issue not addressed by the Met around the events in question.

...

The TFL and Fire Brigade same FOI requests actioned and answered without [sic] any similar issues are also available for comparison to prove [sic] the MET is hiding information [sic] (a serious drug issue they have been turning a blind eye on) behind the cost exception. Residents are preparing a legal case against these events and the extreme anti social behaviour caused by them and the Met police refusal to cooperate is extremely disconcerting and signals potential issues with transparency [sic] and even corruption”.

8. The Commissioner will consider timeliness and the citing of section 12(1) below, in respect of the refined request submitted on 8 July 2023.

Reasons for decision

Section 1 – General right of access

Section 10 - Time for compliance

9. 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.
10. Section 10(1) of FOIA provides that a public authority should comply with section 1(1) within 20 working days.
11. The complainant submitted their request on 25 April 2023 and the MPS replied on 8 July 2023. By failing to respond to the request within 20 working days of receipt, the MPS breached sections 1(1) and 10(1) of FOIA.

Section 12 – Cost of compliance

12. Section 12(1) 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.
13. When considering whether section 12(1) applies, the authority can only take into account certain costs, as set out in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ('the Regulations'). These are:
 - (a) determining whether it holds the information,
 - (b) locating the information, or a document which may contain the information,
 - (c) retrieving the information, or a document which may contain the information, and
 - (d) extracting the information from a document containing it.

14. The Regulations state that the appropriate cost limit is £600 for central government, legislative bodies and the armed forces, and £450 for all other public authorities. The work involved may be charged at a rate of £25 per hour. The cost limit in this case is £450, which is equivalent to 18 hours' work.
15. Section 12 of FOIA makes it clear that a public authority only has to estimate whether the cost of complying would exceed the appropriate limit. It is not required to provide a precise calculation. The task for the Commissioner here is to reach a conclusion as to whether the cost estimate made by the MPS was reasonable; whether it estimated reasonably that the cost of compliance with the request would exceed the limit of £450, that section 12(1) therefore applied and that it was not obliged to comply with the request.
16. In its refusal notice the MPS explained:

"This request exceeds the cost threshold because this information is not held in a central unit...

Furthermore, where you have requested information on the "additional resources" this is not recorded in a format where this information can be extracted within 18 hours. We would not have a specific cost code to determine the "additional resources" that may have been allocated to these events. This would be considered part of officers' normal duties.

We therefore estimate that the cost of complying with this request would exceed the appropriate limit".

17. In its internal review the MPS further explained:

"It should be noted that the MPS is one of the largest public authorities in the UK and therefore the number of records that we deal with is far greater than those of the public authorities you have cited. Additionally, public authorities have differing databases, therefore the searching of records cannot be compared.

... Your request is broad and requires cross referencing of databases and the manual reading of records to determine which records fall with [sic] the scope of your request.

... The requested information is not easily retrievable by automatic means. Our databases do not have flags and markers to easily identify the specific information you seek.

To retrieve the data would require us to read through hundreds of crime reports and call records to ascertain if they relate specifically

to the events at the park. This would be an onerous task which would take an individual much more than 18 hours to complete.

It should be noted that the MPS does not routinely collate the cost of every event that it polices, most of these events are considered as day to day policing and as such individual costs are not collated”.

18. In further correspondence with the Commissioner the MPS explained:

“To comply with the request the MPS would initially have to determine the total call outs for each event within the timeframe requested. Even if the MPS provided a figure of the actual call outs this would not be an accurate figure as they could be routine callouts to the vicinity or venue in questions however not related to the festival, for example a call out to Gunnersbury Park within the specific date to an elderly male collapsed near/or in the park, not actually related to the festival. Without manually searching and reading each call out record we would not know if it is linked to the festival.

Once we have obtained the call outs for the period in question we would then have to make enquiries regarding any associated costs. As explained within our previous responses we do not have a searchable database which will automatically retrieve the requested information as our systems cannot easily search and pick this information out therefore it would require a member of staff to interrogate each individual entry and cross reference several databases to determine any information held within the scope of this request. Any related searches could potentially be open ended, speculative and subject to a number of variables. Consequently, it would be difficult to provide a precise estimate of the amount of time required to determine whether or not the requested information is held.

The events in question do not have dedicated cost codes in order to search for associated costs for the individual events and provide costings for example which officers may have been on duty at the events and how many hours they actually worked and their individual rate of pay for the time.

As we have no automatic means of searching for any associated costs the MPS would have to extract, retrieve and collate information from several sources/databases. Although there are various variables at a minimum the following databases would require searching:-

CRIS (Crime Report Information System) is an electronic management system for the recording and processing of crime in the MPS.

CAD (Computer Aided Despatch System) is a system used to deploy officers to incidents.

CARMS (Computer Aided Resource Management System) is a system for duty planning and human resource management such as overtime, duty postings and sickness.

CUSTODY RECORD - record of detention.

Initially a search would be carried out on CAD for the dates in effect 2/3 months of searching on the date and venue and then you would have to read through the CAD log for the reasons of the call out. Once we have located a call out depending on the type of call out, for example if it was a crime it would be reported on CRIS we would therefore have to read each report manually to pick out the information which may be in the DETS page which is a free text field. This is because our systems cannot easily search and pick out the information required there is no automatic means of retrieving the information as we do not have any flags/markers on our databases to easily identify and then extract the requested information. The data from the databases is also not easily interchangeable. We would then have to search CARMS for example for police overtime which would be associated costs to the event which would require an individual to go through the system manually and search for police overtime costs to each event within the time frame.

Associated costs would have various variables For example, associated costs could relate to various costs such as police overtime costs, drug offences could include drug expert witness reports which are a cost for the MPS, costs to our partners such as recovery, local authority, 3rd party contractors/forensic analysis to name a few.

In order to establish the reasons behind each call out and associated costs, each and every CAD, CRIS, CARMS and CUSTODY RECORD would need to be examined in order to find out the background for the call out and associated costs, you would then discover whether the call out and associated costs were directly related to the complainant's request. This would, in accordance with the actions described at Regulation 4(3), take in excess of the 18 hours allowed and even then, to determine without doubt as to whether or not it is linked to the events and costs".

19. The MPS also explained that it had contacted its West Area HQ, and that the relevant Business Support advised that the following searches would be required to locate and extract what has been requested:

CAD Search

1. Cad Search to look at all incidents that occurred on date in the Ward/Wards that Gunnersbury Park cover, including the surrounding roads, this covers both Ealing and Hounslow boroughs,
2. Review each CAD to see if that it is related to the park then to see if it is related to the event.

If Related to the event, will need to identify what action was taken:-

Recorded Crime – Identify the Crime Number.

Traffic Stop – Outcome – NFA or Processed did this involve Recovery.

Stop – NFA or Recorded Stop.

Arrest – Identify Crime Number and Custody Number.

Identify if the officers creating the CAD were part of the planned policing Team for the event or local officers on routine patrol assisting the event.

CRIS Search

A Number of Searches required:

- Location – Gunnersbury Park, Road Names, there are a number of different roads covering 2 different boroughs that surround the park.

- Details – Search for the Name of the festival (MPS Wide as the report could have been created in a different Borough).

Review the reports to see if they are linked to any of the reports identified through the CAD Search, ensuring we are not double counting.

Review the investigation to establish if there has been any additional work required by partners:

Drugs may have been assessed to establish their identify either by a forensic lab or a professional drug witness statement, costing differs per case.

Identify if officers needed assistance of other teams to conduct Section 18 searches, we would need to check if these officers are part of the operation, additional officers may have incurred additional overtime costs if at the end of their shifts.

Identify if there is the need of an appropriate adult – cost relates to call out travelling time, length of attendance, there could be multiple attendances, the only way to establish the actual cost would be to look for the invoices submitted and cross match the case number and total the costings.

Custody Search

Will need to identify the Custody number from the CAD/Crime Report. If no Custody number or name recorded, (incidents which are not recorded on CRIS may not document on the CAD) need to identify the custody number.

Review the record – identify if the subject did/did not attend hospital during the detention (Additional Officers Cost), this maybe from other teams at different points during the detention. (Handover times may result in overtime due to travelling from the Hospital) Was the detainee subject to a Constant watch (Additional officer Costs).

CARM Search

Identify officers that have been deployed to the event, cross match those mentioned on the CRIS/Custody/CAD/CONNECT, this would require contacting the local duties team and ask for copies of the warned resources.

Identify if the officers were resourced on overtime, or as part of AID (Diverted from normal role) did they incur additional overtime beyond their shift, was this due to the event or due to MPS redeployment. Need to look through each overtime claim to assess.

Identify additional Offices that assisted (BCU Prisoner Processing, Traffic officers, Officers on constant watches, Hospital Guards, review their duty and establish if overtime was incurred and if it was related to the Event”.

Commissioner's view

20. When dealing with a complaint to him under FOIA, it is not the Commissioner's role to make a ruling on what information a public authority should hold, or how it should hold it. He is not concerned with how a public authority deploys its resources, on how it chooses to hold its information, or the strength of its business reasons for holding information in the way that it does as opposed to any other way. Rather, in a case such as this, the Commissioner's role is simply to decide whether or not the requested information can, or cannot, be provided to

a requestor within the appropriate cost limit. On that point, the Information Tribunal in the case of Johnson / MoJ (EA2006/0085) has commented that FOIA:

“... does not extend to what information the public authority should be collecting nor how they should be using the technical tools at their disposal, but rather it is concerned with the disclosure of the information they do hold”.

21. The Commissioner is satisfied that the requested information is not held in a readily retrievable form and so the work involved in complying with the request would be considerable. Clearly the MPS does not hold a specific account code for the events referred to in the request so there is no readily available breakdown. Officers attending are generally doing so as 'routine' duty time so it is not possible to readily calculate 'associated costs' for policing the events.
22. The Commissioner notes that the complainant has had some information provided by other services. However, it is important to note that different services cannot be compared as they do not have the same information systems. Therefore, although the complainant may have been able to obtain some information elsewhere, it does not follow that the MPS is able to provide the same information.
23. Having considered the detailed estimate provided, the Commissioner finds that it is realistic and reasonable. He therefore accepts that to provide the information would exceed the appropriate limit and that section 12(1) has been correctly applied in this case.

Section 16 – Advice and assistance

24. Section 16(1) of FOIA provides that a public authority is required to provide advice and assistance to any individual making an information request, so far as it would be reasonable to expect it to do so. In general, where section 12(1) is cited, in order to comply with this duty a public authority should advise the requester as to how their request could be refined to bring it within the cost limit, albeit that the Commissioner does recognise that where a request is far in excess of the limit, it may not be practical to provide any useful advice.
25. In this case, the MPS has explained to the complainant how the information is held and why compliance would exceed the limit, which resulted in a refined request. However, on this occasion the refinement has not assisted as the complainant has still asked for 'associated costs' which the MPS is unable to provide. Were the complainant to remove 'associated costs', then the MPS may be able to comply with the number of callouts alone. Furthermore, if the complainant is particularly interested in drug-related incidents this may be a useful parameter to specify as it could also narrow down the searches required.

26. Based on the responses given by the MPS, the Commissioner is satisfied that it has endeavoured to provide advice and assistance, albeit this has not been successful in eliciting a response within the cost limit on this occasion.

Right of appeal

27. 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
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

28. 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.

29. 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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