

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

### **Decision notice**

**Date:** 6 February 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 in the form of guides/policy from the Greater Manchester Police ('the Police').
2. The Commissioner's decision is that the Police has correctly relied on section 12 and has also met its obligations under section 16 to provide advice and assistance.
3. The Commissioner has also decided that the Police has breached sections 1(1), 10(1) and 17(5) of FOIA, by failing to refuse the request within 20 working days.
4. The Commissioner does not require further steps.

#### **Request and response**

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5. On 4 February 2023, the complainant wrote to the Police and requested information in the following terms:

"Please note that I am only interested in information which relates to uniformed employees (of all ranks). Please note that the reference to Greater Manchester Police in the questions below should be taken to mean the force's Human resources department (or similar) and any employee (s) specifically charged with training officers on matters relating to inclusion and or diversity and or discrimination.

1...Since 4 February 2022 has Greater Manchester Police issued new uniformed recruits and or existing uniformed officers with any and or all of the following

(a)...A language guide or similar which advises employees on the most appropriate words, phrases, and terms to use when writing to and or communicating with and or referring to their colleagues and or members of the public and or the organisation's clients/customers/service users and or representatives and employees in the organisation's stakeholder and partner organisations. Typically, such a guide will outline words, terms, and phrases to avoid for whatever reason while providing more acceptable words, terms, and phrases. Such guidance could be included in a staff handbook (or similar) or it could be issued in the form of specific written advice. Alternatively, it could be included on the organisation's intranet site and or it could be issued/held digitally and or it could be included in any training/induction video/film.

(b)...A guide or similar which helps and encourages staff to promote diversity and inclusivity both in the workplace and or in their dealings with members of the public and or in their dealings with the organisation's clients/customers/service users and or in their dealings with employees in and or representatives of the organisation's stakeholders and any partner organisations. The guide will include but will not be limited to advice on best practice when it comes to diversity and or I inclusivity and or anti-discrimination policies. It will encourage staff how to avoid discrimination on the grounds of race and or religion and or gender and or sexuality and or age and or disability and or political belief and or social class and or income and or social background. Such guidance could be included in a staff handbook (or similar) or it could be issued in the form of specific written advice. Alternatively, it could include on the organisation's intranet site and or it could be held / issued digitally and or it could be included in any training/induction film/video.

(c)...A guide or similar which alerts staff to the existence of microaggressions and or unconscious bias in the workplace. The guidance will extend to what the organisation and or staff can do to tackle the problems of microaggressions and unconscious bias.

2...If you have answered yes to any part (or indeed all of question one) can you please provide copies of the guidance irrespective of the form in which it was issued or was shared."

6. The Police responded on 25 May 2023. It stated that it held information within the scope of the request, but that the cost of complying with the request would exceed the cost threshold of £450 for local authorities such as the Police. In accordance with this finding, the Police issued a section 12 refusal notice in reply to the complainant's request for information. The Police explained that, due to the nature of the request, it was not possible to offer advice and assistance which would enable the information to be provided without exceeding the cost limit. The Police offered the following advice and assistance "in order for the force to keep this within the fees limit, the information that you are requesting will limit to a specific policy/guidance".
7. The Police upheld its initial application of section 12 of FOIA following its internal review on 12 October 2023.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 4 October 2023 to complain about the way their request for information had been handled. The complainant disagrees with the Police's application of section 12 of FOIA.
10. The Commissioner considers that the scope of his investigation is to determine if the Police has correctly cited section 12(1) of FOIA in response to the request. The Commissioner has also considered whether the Police met its obligation to offer advice and assistance under section 16 of FOIA, and the timeliness of the Police's refusal.

### **Reasons for decision**

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

11. Section 12(1) of the 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").
12. 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 the Police is £450.

13. 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 Police.
14. 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.
15. 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. In accordance with the First-Tier Tribunal in the case of *Randall v Information Commissioner & Medicines and Healthcare Products Regulatory Agency* EA/2007/0004, 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.
16. 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.
17. 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.

**Would the cost of compliance exceed the appropriate limit?**

18. As is the practice in a case in which the public authority has informed the complainant that it holds the information, the Commissioner asked the Police to provide a detailed estimate of the time/cost taken to provide the information falling within the scope of this request.
19. In its submission to the Commissioner the Police stated that the requested information is stored on an electronic system, which requires manual searches to locate and review each record.

20. The Police advised it conducted a search of both its intranet and a search of the People and Development Branch. When searching the People and Development Branch, two documents were located and retrieved which took one hour to complete.
21. When searching the intranet, the Police reviewed a section referred to as the "Diversity Knowledge Bank". This consists of various guides and guidance and incorporates 17 different subjects which contains a total of 277 records. In order to manually review each record to determine if it is relevant to the request would take around 2655 minutes, which is equivalent to 44.25 hours of work.
22. The Police advised the Commissioner that a sampling exercise was conducted for this request, and it had indicated that on average each record could take anywhere between 5-20 minutes to review. It also confirmed that this estimate was based on the quickest method of retrieval.
23. The Commissioner considers that the Police estimated reasonably that it would take more than the 18 hours / £450 limit to respond to the request. The Police was therefore correct to apply section 12(1) of FOIA to the complainant's request.

### **Section 16(1) – The duty to provide advice and assistance**

24. Section 16(1) of FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice<sup>1</sup> in providing advice and assistance, it will have complied with section 16(1).
25. The Commissioner notes that the Police explained to the complainant that requesting a specific policy/guidance will likely prevent the cost/time limit being exceeded. The Commissioner is therefore satisfied that the Police met its obligations under section 16 of FOIA.

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<sup>1</sup> <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

## **Procedural matters**

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26. 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. Where a public authority considers the information or some of the information is exempt from disclosure, section 17 of FOIA requires it to issue a refusal notice, explaining why.
27. Section 10(1) of FOIA requires these actions to be taken within 20 working days of receipt of the request.
28. Under section 17(5) a public authority that's relying on section 12 of FOIA should give the applicant a refusal notice stating that fact within the same timescale.
29. In the circumstances of this case, the Police failed to refuse the request within 20 working days and therefore breached sections 1(1), 10(1) and 17(5) of FOIA.

## **Other matters**

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30. The Commissioner would like to take the opportunity to remind the Police that internal reviews should be completed within 20 working days, but no more than 40 working days. This is considered to be good practice.
31. In the circumstances of this case, the Police failed to complete its internal review within 40 working days. The Commissioner considers this to be an example of poor practice and he's recorded it for monitoring purposes.

## Right of appeal

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32. 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)

33. 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.
34. 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

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