

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 August 2024

Public Authority: Chief Constable of Lancashire Constabulary
Address: Police Headquarters
Saunders Lane
Hutton
Lancashire
PR4 5SB

Decision (including any steps ordered)

1. The complainant has requested information in respect of domestic violence reports.
2. The public authority ("Lancashire Police") relied on section 12(2) of FOIA (cost of compliance) to refuse the request.
3. The Commissioner's decision is that Lancashire Police was entitled to rely on section 12(2) of FOIA to refuse the request.
4. The Commissioner finds that Lancashire Police has complied with its section 16 obligation to offer advice and assistance.
5. The Commissioner also finds that Lancashire Police breached section 10(1) as it failed to respond to one request within the statutory time limit.
6. The Commissioner does not require further steps to be taken.

Request and response

7. On 11 March 2024, the complainant requested information on the following terms:

- "1 How many occasions have domestic violence reports been referred to Merseyside Police in the past year when a perpetrator lives in Lancashire and the victim lives in Merseyside?
- 2 How many occasions have domestic violence reports which involve a male being the victim been referred to Merseyside Police in the past year when a perpetrator lives in Lancashire and the victim lives in Merseyside?
- 3 How many occasions have the domestic violence reports which involve a male being the victim been referred back to Lancashire Police from Merseyside Police?
- 4 How many occasions has there been any follow up to the domestic violence reports which involve a male being the victim that have been referred back to Lancashire Police from Merseyside Police?
- 5 How many occasions have the above domestic violence reports which involve a male being the victim been closed without any action being taken by Lancashire Police
- 6 How many occasions have the victims not been contacted to let them know that the domestic violence reports which involve a male being the victim have been referred to Merseyside Police and subsequently closed by Lancashire Police?"
8. On 16 April 2024, the request was refused by Lancashire Police on the basis of the cost exemption in section 12(2) of FOIA.
9. This position was upheld at internal review on 30 April 2024.

Reasons for decision

Section 12 – cost of compliance

10. Section 12 of FOIA states that 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").
11. Section 12(2) of FOIA states that subsection (1) does not exempt the public authority from the obligation to comply with paragraph (a) of section 1(1) (the duty to inform an applicant whether it holds information of the description specified in the request) unless the

estimated cost of complying with that paragraph alone would exceed the appropriate limit.

12. In other words, if the cost of establishing whether information of the description specified in the request is held would be excessive, the public authority is not required to do so.
13. The appropriate limit is set at £450 for Lancashire Police by the Fees Regulations. They also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that section 12 effectively imposes a time limit of 18 hours for Lancashire Police to deal with a request.
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. The Commissioner considers that any estimate must be sensible, realistic, and supported by cogent evidence.
16. The task for the Commissioner here is to determine whether the cost estimate by Lancashire Police was reasonable. If it was, then section 12(2) was engaged, and Lancashire Police was not obliged to confirm or deny whether the requested information was held.
17. 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.
18. 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.

The complainant's position

19. The complainant is of the view that Lancashire Police must have the means to search for the requested information digitally.

Lancashire Police's position

20. As is the practice in a case in which the public authority has cited the cost limit under section 12(2) of FOIA, the Commissioner expects it to provide a detailed estimate of the time or cost required to provide the information falling within the scope of the request.
21. In its submission to the Commissioner, Lancashire Police explained in great detail why the request made the search for information extraordinarily complex. In particular there were two main elements which made the request burdensome.
22. The first element was the number of records which would need to be searched in order to respond to the request. Lancashire Police carried out a search for a period of one year for crime investigation records and incident records with a domestic abuse marker. The search returned over 20,000 crime investigation records and over 11,000 incident reports.
23. The second element was the specific nature of the questions in the complainant's request which would necessitate manual searches of the records to find any information in scope of the request. For example, in respect of investigations transferred between Lancashire and Merseyside, there is no digital search field for this in crime investigation or incident records and a manual read of each record would be required to answer this important part of the request.
24. Following the Commissioner's request to do a sampling exercise of some of the records in scope, Lancashire Police carried out a sampling exercise of six crime investigation records and provided the Commissioner with detailed estimates of the searches done and the time taken to try to find information in scope of the request.
25. Based on the work undertaken to complete these estimates, Lancashire Police provided the Commissioner with an estimate of over 500 hours to respond to the request.

The Commissioner's view

26. The Commissioner accepts Lancashire Police's detailed explanation and accepts that the number of records that would need to be searched, and the specific wording of the request, mean that Lancashire Police has estimated reasonably that to confirm or deny whether it holds any

information within the scope of the complainant's request would exceed the appropriate cost limit. Lancashire Police was therefore correct to apply section 12(2) of FOIA to the complainant's request.

Procedural matters

Section 16 – advice and assistance

27. Section 16 of FOIA requires public authorities to provide reasonable advice and assistance to those making, or wishing to make, information requests.
28. When a public authority refuses a request because the cost of compliance exceeds the appropriate limit, it should explain, to the requester, how they could refine their request such that it would fall within that limit. In rare cases, it will be appropriate for the public authority to explain to the requester why their request cannot be meaningfully refined.
29. In this case, Lancashire Police informed the requester in its initial response:

“As per Section 16 in order to provide advice and assistance I can advise that our information is set up and searchable for our policing purpose and I regret I am unable to offer advice as to how this request could be refined to provide the information you require.”
30. In its response to the Commissioner, Lancashire Police has offered to speak to complainant to explain its processes and to see if a mutual agreement can be reached in providing different data that is more easily extractable.
31. 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, as is the case here. The Commissioner is therefore satisfied that Lancashire Police did not breach section 16 of FOIA when dealing with this request.

Section 10 – time for compliance

32. Under section 10(1) a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of a request.
33. In this case the request was submitted on 11 March 2024 and Lancashire Police did not respond until 14 April 2024. The Commissioner

therefore finds that Lancashire Police breached section 10(1) of the FOIA in failing to respond to this request within the statutory timescale.

Right of appeal

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

Website: 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.

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