

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 September 2024

Public Authority: Chief Constable of Lincolnshire Police
Address: Lincolnshire Police Headquarters
Nettleham
Lincoln
LN2 2LT

Decision (including any steps ordered)

1. The complainant requested numbers of staff employed (actual and full time equivalent) for specified categories of employees between 2010 to 2024. Lincolnshire Police provided some of the requested information dating from 2014. At internal review, Lincolnshire Police explained that it was unable to provide any earlier data as it no longer had access to a redundant system.
2. During the Commissioner's investigation, Lincolnshire Police provided the complainant with additional information which it had obtained from its Annual Data Returns for workforce figures submitted to the Home Office for the years 2010 to 2013, for some categories of employees requested by the complainant. He maintained that Lincolnshire Police must hold further information. The Commissioner has considered whether Lincolnshire Police holds more information than has already been disclosed to the complainant.
3. The Commissioner's decision is, on the balance of probabilities, that no further recorded information within the scope of the request is held by Lincolnshire Police.
4. No steps are required as a result of this notice.

Request and response

5. On 11 March 2024, the complainant wrote to Lincolnshire Police and requested information in the following terms:

“Numbers of staff both actual numbers (headcount) and Full Time Equivalent (FTE), for each year from 2010 to 2024 inclusive. Specifically broken down into the following categories:

1. Warranted officers - Headcount & FTE
2. PCSO [Police Community Support Officers] - Headcount & FTE
3. Civilian gaolers - Headcount & FTE
4. Civilian control room staff - Headcount & FTE
5. Civilian staff all other departments - Headcount & FTE.”

6. Lincolnshire Police responded on 10 April 2024. It provided some information in response to parts 1, 2, 4 and 5 of the request, for the years 2014 to 2024. For part 3, Lincolnshire Police said:

“From 2014 to 2022 all Lincolnshire Polices [sic] Custody staff were employed by G4S. We can not disclose the headcount/strength figures of people whom were employed by a different organisation.

From 2022 to date all Lincolnshire Police Custody Staff are employed by Mitie. We can not disclose the headcount/strength figures of people whom were employed by a different organisation.”

7. The complainant expressed dissatisfaction with the public authority’s response on 10 April 2024. Any such expression is regarded under FOIA as the complainant having requested an internal review, even where this has not been explicitly stated. The complainant said that the figures had only been provided from 2014, as opposed to 2010.
8. Following its internal review, Lincolnshire Police wrote to the complainant on 11 March 2024. It amended its substantive response to include the following explanation:

“We are only able to provide data from 2014 onwards, previous FTE and Headcount information is on the redundant HR System to which we no longer have access.”

Scope of the case

9. The complainant contacted the Commissioner on 12 April 2024 to complain about the way his request for information had been handled.
10. The complainant believes the remaining requested information for parts 1, 2, 3, 4 and 5 of his request (for 2010 to 2013), can be located in other records available to Lincolnshire Police and submitted the following, which the Commissioner relayed to the public authority:

“I know that these figures are circulated in reports to the Chief Constable, PCC [Police and Crime Commissioner] and in the Annual Policing Report as an absolute minimum and will be in many other documents. What I am saying is that the HR computer may have been shut down, but the information from Police Officer numbers 2010-2013 inclusive will be on the Lincolnshire Constabulary IT system in multiple files, many of them easily and readily available and accessible.

There is no acceptable reason for this omission.”

11. On 30 July 2024, Lincolnshire Police wrote to both the complainant and the Commissioner with a partly revised response. It said it had conducted further searches and liaised with the relevant business areas, and, as a result, released some additional information.
12. Lincolnshire Police explained that it had examined its Annual Data Returns (‘ADRs’) for workforce figures that it provides to the Home Office each year. As a result, Lincolnshire Police was able to disclose further data to the complainant in relation to the numbers of Warranted Officers, PCSOs, Custody Officers and Staff for the years 2010 to 2013.
13. Lincolnshire Police also told the complainant:

“No figures are held on Custody staff for 2013 as civilian custody staff were outsourced to G4S (private company) and therefore no longer employed by Lincolnshire police (G4S staff figures were therefore not included in ADRs).

For civilian staff (civilian gaolers/custody staff, civilian control room staff and ‘other civilian staff’), we have been able to retrieve partial/cumulative figures only for 2010 - 2013 as the specific breakdown categories requested by you did not form part of the required data returns and are therefore no longer held for 2010 – 2013.”

14. In addition it explained:

"From April 2012 to April 2022, an outsourcing arrangement with G4S saw all Custody and Control room staff (among several other departments) transfer to the employment of G4S. On 1 April 2022, the staff in the Force Control Room transferred back to Lincolnshire Police.

On 1 April 2022, Custody staff transferred from G4S to Mitie, who still provide custody services to Lincolnshire Police. These staff are not directly employed by Lincolnshire Police and therefore we do not hold workforce data about them on our HR system and the outsourced staff figures are not included in the ADRs.

Our current HR system does not hold any information from before 2014."

15. The Commissioner sought the complainant's view following the updated response.

16. On 6 August 2024, the complainant replied and included the following:

"Thank you for your attention to this matter which resulted in a large proportion of the information now being identified and supplied. I am still concerned that some of the information which is missing could be recovered from information held on Lincolnshire police records. For instance it stated that because G4S started the contract in 2013 no information is available. I believe that the contract would contain this information which would be stored on Lincolnshire Police systems, as well as other communications and reports both internal and with the contractor."

17. The Commissioner relayed the foregoing to Lincolnshire Police for any further comments. Due to the non-availability of key personnel involved, Lincolnshire Police was not able to provide its reply until 30 August 2024.

18. Subsequently, Lincolnshire Police said it had made further enquiries based on the complainant's suggestions set out above and explained that:

"I was advised that the contractual data/reports we hold in relation to our outsourced staff relate to performance against the contract but do not include the specific breakdowns sought by the requester. I have therefore unfortunately not been able to locate the historic data relating to the expired G4S contract on our systems.

For the more recent outsourced staff data, I have obtained contact details and liaised directly with our current contractor, Mitie, who were able to retrieve and provide me with the civilian Custody staff figures for the 2022-2024 period from their systems. I have included these figures on the attached/ revised FOI response document and have also sent a copy of the document to the complainant in case this is useful to them.

I have not been able to obtain the historic figures from G4S directly as the contract expired in 2022 and the Commercial Partnership Team (CPT) was disbanded afterwards."

19. Lincolnshire Police wrote to the complainant to inform him of the above on 30 August 2024.
20. On 7 September 2024, the complainant submitted the following to the Commissioner in response to the updated information he had received from the public authority:

"I am not satisfied with the response. I find it hard to believe they have not kept records of the contract with G4S. I also find it hard to believe that there was no communication between Lincolnshire Police and G4S discussing this information.

This raises the question, was the contract between Lincolnshire Police and G4S, or was it between the Home Office and G4S?"

21. In response, Lincolnshire Police advised:

"The contract between G4S and Lincs Police for Custody was managed by a member of the Commercial Partnership Team. That team was disbanded in 2022 when the contract was not extended and therefore ended. The Contract manager for Custody no longer works in the organisation and the Commercial Partnership Team no longer exists.

The current contract manager confirmed that monthly reports and meetings were carried out with all business areas that were outsourced and this is where performance was discussed/detailed. Lincs Police paid G4S to provide a service and providing that service was met, it was not in our gift to be aware of the number of employees G4S employed. If standards were not met or there were any breaches [sic] these would be dealt with at the monthly service review meeting. There are over 120 monthly reports for each business area spread over the term of the contract (10 Years), however, these reports cover performance only and as stated above do not include number of staff."

22. The Commissioner has considered whether, on the balance of probabilities, any further information is held by Lincolnshire Police other than that already disclosed in response to this request.
23. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of FOIA.
24. FOIA is concerned with transparency of information held by public authorities. It gives an individual the right to access recorded information (other than their own personal data) held by public authorities. FOIA does not require public authorities to generate information or to answer questions, provide explanations or give opinions, unless this is recorded information that they already hold.

Reasons for decision

Section 1 – general right of access

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

“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.”

26. The Commissioner is mindful that when he receives a complaint alleging that a public authority has stated incorrectly that it does not hold any further requested information, it is seldom possible to prove with absolute certainty whether the requested information is held. In such cases, the Commissioner will apply the normal civil standard of proof in determining the case and will decide on the 'balance of probabilities' whether more information is held.
27. The Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the public authority to check whether any further information is held and any other reasons offered by the public authority to explain why no further information is held. He will also consider any reason why it is inherently likely or unlikely that additional information is not held. For clarity, the Commissioner is not expected to prove categorically whether any further information is held; he is only required to make a judgement on whether

further information is held on the civil standard of proof of the balance of probabilities.

28. On 30 July 2024, Lincolnshire Police provided the Commissioner with details of the searches it had undertaken in order to respond to this request. In this case, the Commissioner is also mindful of the additional exchanges and explanations provided by the public authority in response to the complainant's further comments, as set out in the 'Scope' section above.
29. Lincolnshire Police explained that:

"System searches were carried out by our HR department and the retrieved data (from 2014 onwards) was supplied to the requester. HR staff member dealing did not consider the Annual Data Returns (ADRs) initially as a potential source of the older (pre-2014) information (as relatively new to the team and unaware of these reports).

Consultation with HR department undertaken. Initially, no search was undertaken for the pre-2014 data as the historic data was no longer available on the HR system in use and was therefore treated as 'not held'.

Additional searches were carried out by the workforce planning team of ADRs (Annual Data Returns) which are sent to the Home Office each year and a copy of which is retained by the Force. This enabled the retrieval of some additional/historic data [as provided to the complainant]."

30. Lincolnshire Police said the requested information is held electronically. It reiterated that its current HR system includes workforce data for Lincolnshire Police officers and staff going back 10 years (ie from 2014 onwards). Lincolnshire Police also said that its formal records management policy is:

"Not applicable as workforce data for outsourced staff was not held by the Force. As the staff in question were employed by private companies (G4S and Mitie), the data was not required for workforce ADRs as not directly employed by Lincolnshire police."

31. Finally, Lincolnshire Police advised that there is no business purpose or statutory requirement for it to hold or retain any further requested information.

Conclusion

32. When, as in this case, the Commissioner receives a complaint that a public authority has not disclosed the information that a complainant

believes it must hold, it is seldom possible to prove with absolute certainty that it holds no relevant information. However, as set out in the paragraphs above, the Commissioner is required to make a finding on the balance of probabilities.

33. The Commissioner is mindful that he has relayed the various comments made by the complainant during his investigation to Lincolnshire Police and that this has resulted in the disclosure of some additional information.
34. Having considered the explanation provided by Lincolnshire Police, whilst taking account of the points raised by the complainant, the Commissioner is satisfied, on the civil standard of the balance of probabilities, that no further recorded information within the scope of the request is held.

Right of appeal

35. 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

36. 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.
37. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Carol Scott
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