

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 08 October 2024

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 information about 'Operation Hopgrove' from the Metropolitan Police Service (the "MPS"). The MPS provided some information but it refused to provide the remainder, as to do so would exceed the cost limit at section 12(1) (Cost of compliance exceeds appropriate limit) of FOIA.
2. The Commissioner's decision is that the MPS handled the request appropriately. He does not require further steps.

Background

3. The request relates to Operation Hopgrove. According to the BBC website¹ this Operation relates to the MPS' investigation of alleged abuse at a special school in London.

¹ <https://www.bbc.co.uk/news/uk-58885635>

Request and response

4. On 9 May 2024, the complainant submitted the following revised request to the MPS:

“Question 1: How much money has been spent to date on Operation Hopgrove?

Question 2: How many police officers were in the dedicated team who worked on Hopgrove? Please provide figures for when the team was considered to be at its fullest size and break down by rank.

For question 1, The Metropolitan Police routinely provides the cost of police operations - please see references 01.FOI.22.026744, 01.FOI.23.030806 and 01.FOI.22.022151 of your disclosure log.

For question 2, I have simplified the request to refer to the dedicated team who worked on the investigation - and not officers who may have provided limited help.

Other FOI responses from the Met have accepted that ‘there will normally be a team or dedicated ‘knot’ of officers at the centre of any investigation’ - which it is able to detail, rather than including every single officer who may have occasionally provided limited work on the operation.

This information about the ‘dedicated team’ is what is requested in relation to Hopgrove. Please provide figures for when the team was considered to be at its fullest size - or at whatever point it was recorded as being at its fullest size”.

5. On 29 May 2024, the MPS responded. With the complainant’s approval, it provided a response to part (2) of the request. However, for part (1) of the request it cited section 12(1) of FOIA. It explained to the complainant:

“The MPS does not hold the total cost of Operation Hopgrove The cost of a police investigation is largely comprised of:

1. Police officer and police staff time deployed during the course of an investigation. This will typically include a range of activities such as securing any available evidence, tracing and interviewing any witnesses and suspects and reviewing and preparing any available evidence for any applicable criminal proceedings.
2. Police officer and police staff time dealing with arrests and/or processing detainees where applicable.
3. Police officer and police staff overtime payments.

4. Any applicable expenses claimed.
 5. Costs associated with vehicles, equipment and any other applicable tools used to further the investigation.
 6. Miscellaneous expenses”.
6. On 2 June 2024, the complainant requested an internal review of part (1) of his request. When doing so he said: “Should it not be possible to provide a wholly accurate total figure, please provide a best estimate, alongside costs known to have been attributed to the operation”.
7. The MPS provided an internal review on 1 August 2024, in which it maintained its position.

Scope of the case

8. The complainant initially contacted the Commissioner prior to receiving an internal review. Having received this, on 18 August 2024 the complainant confirmed that he remained dissatisfied and required a decision notice
9. The Commissioner will consider the citing of section 12(1) of FOIA in respect of part (1) of the request below. It should be noted that the Commissioner cannot ask a public authority to provide a “best estimate” under the remit of FOIA legislation.
10. 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. FOIA is concerned with transparency and provides for the disclosure 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 12 – Cost of compliance exceeds appropriate limit

11. 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.
12. 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.
13. 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 cost limit in this case is £450, which is equivalent to 18 hours' work.
14. 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*², 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 requests.
15. In refusing the request, the MPS gave a detailed explanation which included the following:
- "Cost codes are attached to a particular activity, operation or investigation by the Met's Finance Team and allow defined costs to be recorded. Some investigations may carry a unique cost code but the majority of MPS investigations do not. Operation Hopgrove has its own cost code that was used to record some overtime associated with this investigation. This does not capture all overtime or any other costs associated with this investigation".
16. The MPS said that its officers are involved in a number of different investigations and activities at any given time, advising: "In many

²<http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i136/Randall.pdf>

cases, a police officer's duties for a particular day are not dedicated to a single investigation, operation or activity". It added that its officers record their daily duties on its Computer Aided Resource Management System (CARMS), but that they would not generally record their duties in sufficient detail to enable the precise time spent on a particular investigation to be established.

17. It then explained that police support staff do not generally record their daily duties on any system and that there is therefore often no record of police staff time spent supporting a police investigation.

18. It further added:

"Each police employee receives a unique salary based on their individual rate of pay as they progress through the pay spine of their respective grade/rank. Rates of pay also differ based on any applicable allowances and the pension scheme to which each employee is aligned. The MPS also makes individual national insurance contributions and pension contributions for each employee. Accurate employee costs per investigation can therefore only be calculated based on individual rates of pay/costs and the time they have spent performing duties in connection with that investigation. This cannot accurately be calculated owing to the absence of reliable data ...

...Vehicles, fuel, equipment and other miscellaneous costs cannot accurately be reported by the MPS".

19. At internal review, the MPS provided further rational as to why the information was not held, which the Commissioner does not consider necessary to repeat here. It also disclosed some information as follows:

"I am able to confirm that our records indicate a spend of £7,719.11 on overtime. However, this information is based on an occasional cost code, which only recorded overtime spends and which was only in place for a few months, therefore does not cover the entire investigation period, where overtime would have been absorbed more generally into Basic Command Unit codes".

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. Having considered the detailed estimate provided, and taking into account his own experience of dealing with requests for this type of information, the Commissioner finds that the estimate is realistic and reasonable. He therefore accepts that to comply with the request would exceed the appropriate limit and that section 12(1) has been correctly applied in this case.

Section 16 – Advice and assistance

22. 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.
23. In this case, the Commissioner finds that the MPS has clearly explained how it holds this type of information and he accepts that there is no easy way for it to suggest how the complainant might refine his request to keep it within the cost limit. He therefore finds no breach of section 16.

Other matters

24. Although they do not form part of this notice the Commissioner wishes to highlight the following matter.

Internal review

25. 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.
26. Part VI of the section 45 Code of Practice states that it is desirable practice that a public authority should have a procedure in place for dealing with complaints about its handling of requests for information, and that the procedure should encourage a prompt determination of the

complaint. The Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by FOIA, the Commissioner considers that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may take longer but in no case should the time taken exceed 40 working days; it is expected that this will only be required in complex and voluminous cases, which this request was not. The Commissioner is therefore concerned that it took nearly two months for the MPS to conduct an internal review in this case.

27. The Commissioner would like to remind the MPS that he routinely monitors the performance of public authorities and their compliance with the legislation. Records of procedural breaches are retained to assist the Commissioner with this process and further remedial work may be required in the future should any patterns of non-compliance emerge.

Right of appeal

28. 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

29. 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.
30. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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