

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

### **Decision notice**

**Date:** 9 December 2024

**Public Authority:** Chief Constable of Leicestershire Police  
**Address:** Force Headquarters  
St Johns  
Enderby  
Leicestershire  
LE19 2BX

#### **Decision (including any steps ordered)**

---

1. The complainant requested a copy of a particular car parking related procedure from Leicestershire Police, together with a copy of the procedures or tests the Force uses to determine whether to investigate a crime or whether to refer it to the Crown Prosecution Service. Leicestershire Police initially cited section 31(1)(a) (the FOIA law enforcement exemption for the prevention or detection of crime, and section 31(1)(b) (the FOIA exemption for the apprehension or prosecution of offenders) to refuse the request, but provided some narrative details.
2. During the course of the Commissioner's investigation, Leicestershire Police revised its position and provided the previously withheld Road Traffic Procedure in full. For the remainder of the request it cited section 12(1) of FOIA. The complainant remained dissatisfied with the application of section 12 of FOIA.
3. The Commissioner's decision is that Leicestershire Police has properly relied on section 12(1) of FOIA to refuse the second part of the request. The Commissioner also considers that Leicestershire Police has complied with its obligations under section 16(1) of FOIA to provide adequate advice and assistance.
4. No steps are required as a result of this notice.

## Request and response

---

5. On 3 January 2024, the complainant wrote to Leicestershire Police and requested information in the following terms:
  - 'Please provide me with a copy of all of the Procedure that the 4.3.1, "Car Park Minor Damage Only Collision" procedure was taken from that your department referred to in its 002705/23 response;
  - and if possible give me a copy of all Leicestershire Police Force's procedures or tests that it uses to determine whether to investigate a crime or refer it to the Crown Prosecution Service (CPS).'
6. Leicestershire Police responded on 25 January 2024. It provided some information in that it quoted the relevant parts from the Road Traffic Collision Procedure, and provided a narrative for the second part of the request.
7. The complainant requested an internal review on 31 January 2024. He asked Leicestershire Police to provide what he had requested, namely "a copy of the procedures" cited in his request.
8. Following its internal review Leicestershire Police wrote to the complainant late, on 11 June 2024. It revised its position and agreed that its original response had not provided the complainant with the actual information requested. Leicestershire Police now cited sections 31(1)(a) and (b) – the FOIA exemptions for the prevention or detection of crime, and for the apprehension or prosecution of offenders to refuse the request.

## Scope of the case

---

9. The complainant contacted the Commissioner on 17 June 2024 to complain about the way his request for information had been handled. He initially challenged Leicestershire Police's application of section 31 of FOIA.
10. However, Leicestershire Police revised its position during the course of the Commissioner's investigation. On 15 November 2024, Leicestershire Police wrote to both the complainant and the Commissioner. It now provided the previously withheld Road Traffic Collision procedure in full, which meant that both the section 31(1)(a) and (b) exemptions of FOIA fell away.
11. Leicestershire Police also told the complainant that:

"In relation to your final element of your request - and if possible give me a copy of all Leicestershire Police Force's procedures or tests that it uses to determine whether to investigate a crime or refer it to the Crown Prosecution Service (CPS).

Unfortunately, this is not so straightforward. Each case is considered on its merits and certain processes will apply for the particular crime in question - e.g. murder offences have a set process, GBH [Grievous Bodily Harm] cases do etc. To research them for every crime would trigger the Section 12 cost exemption, but hopefully the attached document helps answer your queries in terms of Road Traffic offences."

12. There followed further exchanges between the parties with a view to attempting to resolve this complaint informally (ie without the need for a decision notice). The Commissioner has not detailed them here given both parties have copies of the correspondence; however, the final position was that Leicestershire Police cited section 12 of FOIA - the cost of compliance - in relation to the second part of the request.
13. Whilst the complainant was now satisfied with the outcome of the first part of his request (ie for a copy of the Road Traffic Collision Procedure), he remained dissatisfied with the application of section 12 of FOIA to the second part of his request. Specifically, on 19 November 2024, he told the Commissioner that:

"My response is that I am only partially happy with the Force's 15/11/2024 response, and so am not satisfied by it because I believe the Force is not entitled to use section 12 of the Freedom of Information Act 2000 (FOI) to avoid giving me the rest of the information that my FOI request asked for.

My reason for the above belief is that in the Force's response, it claims that the cost of finding and supplying the other information I asked for would cause section 12 to apply. This is patently wrong because the whole idea of having procedures is that they should be readily available for referencing, and as the information that the Force has already sent me shows, the Force's procedures are kept in a computer data format, and so there should be no or negligible cost involved in finding and supplying all of the requested information to me.

If what is said in the above paragraph was not the case, then it would mean the Force's officers and other employees could use section 12 to hide the majority of the Force's procedures from the public, and possible [sic] even hide it from our judiciary and other branches of government. If so this would produce or has produced a mystique or confusion about how, when and why the

Force applies the laws it administers, and this would ultimately mean it is to a large extent in charge of the government and judiciary because the hiding would enable of cause the Force to decide on how when and why to enforce the law, in a way that is not laid down in statute nor externally scrutinise-able. Even so, the fact that the Force has given me some of it's [sic] procedures shows that a number of FOI requests could be submitted to the Force to obtain all of the parts of the Force's procedures, and so to avoid me and any one else having to do this, would it not be better the Force just to publish it's [sic] procedures.

In consideration of the above I still want all of the information that I requested."

14. The Commissioner has therefore considered whether Leicestershire Police was entitled to rely on section 12 of FOIA in relation to the second part of the request.

## **Reasons for decision**

---

### **Section 12 – Cost of compliance exceeds appropriate limit**

15. The reasoning below examines whether Leicestershire Police was entitled to rely on section 12(1) of FOIA to refuse to provide the remaining requested information.
16. 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.
17. 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.
18. In accordance with the Regulations, the applicable cost limit in this case is £450, which is equivalent to 18 hours' work.

19. 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 Leicestershire Police was reasonable; in other words 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 in full.

20. Leicestershire Police has explained that:

"In respect of the application of Section 12 I think I first need to address this idea that we have individual policies for every element of policing. The investigation and charging process is nuanced for different crimes and we would not necessarily have a document that addresses these for every crime type. Much of this is done through negotiation with the CPS and action plans they set us to ensure we meet the criminal threshold etc which are always case specific. If a crime meets the recording guidance issued by the Home Office an investigation will occur, the evidential collation process takes place and then an assessment is done to determine if a charge can be progressed or not. There are very few exceptions to this rule, as I understand it, with damage only RTC's [road traffic collisions] being one as [the complainant] has raised.

To put this in to some perspective further, there are approximately 15,462 recordable crime types in the UK and to search for policies, procedures or local guidance related to them all would invariably result in the Section 12 Cost exemption. However, I have tasked my FOI Officer to review our published Policies and Procedures and conducted a dip sample to review the contents of each to locate material that is relevant to [the complainant's] request. Their findings are as follows:

- 245 Documents tagged under 'Procedure'
  - 119 Documented tagged under 'Policy'
- = Total: 344 Documents."**

21. Leicestershire Police also told the Commissioner that:

"For the purpose of sampling, I've excluded all of the other doc types, albeit in practice some of these would be considered searchable to satisfy the request (such as those tagged as 'Guidance')

**Docs Sampled**

<b>ANPR [Automatic Number Plate Recognition] Policy and procedure</b>	- 23 pages
<b>Covert Surveillance Activity Policy and Procedures</b>	- 31 pages
<b>Foreign National Investigations</b>	- 9 pages
<b>Firearms and Explosives Licensing Policy and Procedure</b>	- 34 pages
<b>Procedures for the Management of Kidnap, Extortion and Crimes in Action</b>	- 67 pages
<b>Adult Safeguarding Hub Policy &amp; Procedure</b>	- 28 pages
<b>Policing Sex Workers Policy / Procedure</b>	- 39 pages

**MEAN AVERAGE PER DOC = 33 PAGES**

**MEDIAN AVERAGE PER DOC = 31 PAGES**

USING SMALLER AVERAGE IN THE INTEREST OF FAIRNESS TO THE APPLICANT

**ESTIMATED TOTAL PAGES:** *[NUMBER OF DOCS \* AVERAGE PAGES]* = est. **11,284 pages** that would need to be read to ascertain whether any information exists

**Timed reading 1 full page uninterrupted** (page 4 of Police Temporary Alarm Scheme Policy & Procedure) @ 2m23 seconds (Rounded down to 2 mins to account for partially complete pages as we do accept that not every page on each document will be a complete block of text)

2 x 11,284 = 22,568 minutes

/60 = est. 376 hours (rounded down to the nearest whole hour)

In the interest of fairness, we can assume that we wouldn't necessarily need to read the entire document every single time if we were able to identify the presence of such info early on in the reading process, but even removing 75% of the estimated page total would equate to **94 hours**.

As you can see the FOI Section 12 cost limit would clearly be reached and whilst we can do targeted enquiries for specific

crime types, like [the complainant] and his Road Traffic issue, doing it for every crime type would incur the Section 12 cost exemption as the data will be contained within a much larger document."

22. In his attempt to informally resolve this complaint, the Commissioner relayed the foregoing estimate and above accompanying explanation to the complainant on 26 November 2024.
23. The complainant raised several concerns about Leicestershire Police's response, namely:

'The first paragraph of Leicestershire Police's response has nothing to do with the request because the request asks for Leicestershire Police's policies / procedures and the paragraph does not mention these things. Therefore, the paragraph could be construed as being a smoke screen, and if so it should be ignored because otherwise it would get in the way of the case being resolved in accordance with the law.

In the second paragraph of Leicestershire Police's response, Leicestershire Police says it "I have tasked my FOI Officer to review our published Policies and Procedures". Therefore, if this means all of Leicestershire Police's policies / procedures are published, then all Leicestershire Police needs to do to comply with request is to refer me to, or give me the addresses of these documents so that I can look at them. Alternatively, if all of the policies / procedure are not published, then this shows parts or all of them are hidden from public scrutiny, and possibly hidden from independent scrutiny that could help Leicestershire Police to perform it's official function.

Finally, in Leicestershire Police's response, in red text it says "est. 11,284 pages that would need to be read to ascertain whether any information exists". Therefore, due to these pages being policy / procedure pages all Leicester Polices needs to do to comply with the request is to give me copies or sight of them. This shows that to comply with the request in this way, Leicestershire Police does not no [sic] need to read the pages because all it needs to know to comply with the request, is that the pages are from the policy / procedure document or documents. Alternatively, is Leicestershire Police's response is an admission that it's [sic] policies / procedures are so badly mixed up with other documents and other matters that it cannot readily discern what and where they are? If so then this is something that I suggest needs to be quickly remedied because it is more than likely causing Leicestershire Police's Officers and employees



to guess at what these policies / procedures might be or not to enforce the law as it should be enforced.'

24. The Commissioner relayed the complainant's concerns set out above to Leicestershire Police for any final comment prior to him concluding his investigation. The Commissioner disagrees with the complainant's view that the first paragraph of Leicestershire Police's response (see quoted section under paragraph 20 above) is a "smokescreen". He considers it entirely reasonable for Leicestershire Police to include an explanation as to how it approaches policies in relation to crime.
25. In response, Leicestershire Police advised the Commissioner as follows; as the complainant has not had sight of this reply, the Commissioner has reproduced it here:

"...like all organisations not all of our policies and procedures are suitable for disclosure. We are a law enforcement agency, and our policies and procedures outline tactics and processes that would be covered by Sec 31 amongst others. For example, we would never publish our terrorism procedure as we wouldn't want potential terrorists to know how we handle these matters. So the fact of the matter remains – finding the relevant material relevant to [the complainant's] request still requires a manual review of the relevant procedure. Like all Forces, we publish our suitable policies and procedures – see here; [Published items | Leicestershire Police](#) and we are always constantly seeking to improve it.

My earlier point stands – policies and procedures cover lots of different elements of a particular topic – they are not purely a procedure for X element – they are combined. So for example our Domestic Violence Procedure would cover all elements of DV, and not just crime recording and the like".

26. The Commissioner has no reason to doubt the reasonableness of Leicestershire Police's cost estimate, particularly as a sampling exercise has been conducted. The Commissioner notes that, even if some parts may have unintentionally been slightly mis-estimated, the total time significantly exceeds the cost limit of 18 hours and £450 proscribed by the Act.
27. Having taken both parties' arguments into account, the Commissioner has reached his conclusion set out below.

## **Conclusion**

28. In determining whether Leicestershire Police has correctly applied section 12 of FOIA in this case, the Commissioner has considered Leicestershire Police's rationale provided to him during the investigation.



29. The Commissioner accepts that Leicestershire Police has reasonably estimated that the cost of complying with the request in full would exceed the appropriate limit.
30. Even if the Commissioner were to consider that Leicestershire Police's estimate may not be completely accurate, he does not deem that the estimate could be reduced to the point at which it would fall within the cost limit.
31. The Commissioner is therefore satisfied that Leicestershire Police was entitled to rely on section 12(1) of FOIA to refuse the second part of the request.

### **Section 16 – advice and assistance**

32. Section 16 of FOIA requires public authorities to provide reasonable advice and assistance to those making or wishing to make requests for information.
33. The Section 45 FOIA Code of Practice (the 'Code')<sup>1</sup> states that, where a public authority is relying on section 12 to refuse a request, it should help the requester to refine their request within the cost limit.
34. Having considered the available evidence, the Commissioner notes that Leicestershire Police has said the following (relayed to the complainant by the Commissioner during his investigation, and as set out at the end of paragraph 21 above):

“As you can see the FOI Section 12 cost limit would clearly be reached and whilst we can do targeted enquiries for specific crime types, like [the complainant] and his Road Traffic issue, doing it for every crime type would incur the Section 12 cost exemption as the data will be contained within a much larger document.”

35. The Commissioner is satisfied that Leicestershire Police has offered reasonable advice and assistance in this case. He therefore finds that it has complied with its section 16 of FOIA obligations.

---

<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/744071/CoP\\_FOI\\_Code\\_of\\_Practice\\_-\\_Minor\\_Amendments\\_20180926\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf)

## **Other matters**

---

36. Although not complained about by the complainant, the Commissioner has made a record of the delay in Leicestershire Police providing its internal review outcome in this case, which exceeded the recommended 20 working days' time limit.
37. The Commissioner will use intelligence gathered from individual cases to inform his insight and compliance function. The Commissioner aims to increase the impact of FOIA enforcement activity through targeting of systemic non-compliance, consistent with the approaches set out in our FOI and Transparency Regulatory Manual<sup>2</sup>.

---

<sup>2</sup> [https://ico.org.uk/media/about-the-ico/documents/4020912/foi-and-transparency-regulatory-manual-v1\\_0.pdf](https://ico.org.uk/media/about-the-ico/documents/4020912/foi-and-transparency-regulatory-manual-v1_0.pdf)

## **Right of appeal**

---

38. 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)

39. 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.

40. 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**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**