

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 18 August 2021

Public Authority: Chief Constable of Cumbria Constabulary
Address: Cumbria Constabulary Headquarters
Carleton Hall
Penrith
Cumbria
CA10 2AU

Section 51

Under section 51 of the Freedom of Information Act 2000 (the "Act"), which is set out below, the Information Commissioner (the "Commissioner") has the power to serve a notice on a public authority requiring it to furnish her with any information she requires to enforce the requirements of the Act.

51. – (1) If the Commissioner –

(a) has received an application under section 50, ...

she may serve the authority with a notice (in this Act referred to as "an information notice") requiring it, within such time as is specified in the notice, to furnish the Commissioner, in such form as may be so specified, with such information relating to the application, to compliance with Part I or to conformity with the code of practice as is so specified.

Application under section 50

1. The Commissioner has received an application under section 50, reference IC-105907-Z9B4, for a decision as to whether a request for information, made by the complainant to Cumbria Constabulary on 27 August 2020, has been dealt with in accordance with the requirements of Part I of the Act.

Nature of complaint

2. On 27 August 2020, the complainant made the following request for information under the Act:

"Please provide a copy of all problem profile assessments produced or commissioned by your police force related to child sexual exploitation in your force area from January 1st 2010 to date".
3. Cumbria Constabulary responded on 20 October 2020 and refused to provide the requested information, citing the cost limit as its basis for doing so.
4. The complainant requested an internal review on 28 October 2020. Cumbria Constabulary sent the outcome of its internal review on 7 May 2021 in which it maintained its position.
5. On 14 May 2021, the complainant wrote to the Commissioner to complain about the response.
6. On 28 June 2021, the Commissioner wrote to Cumbria Constabulary raising various queries to assist with her investigation. At the time of writing this notice, she has received no acknowledgement or response.

Information required

7. In view of the matters described above the Commissioner hereby gives notice that in the exercise of her powers under section 51 of the Act she requires that Cumbria Constabulary shall, within 30 calendar days of the date of this notice, furnish the Commissioner with a copy of the following information.
8. Cumbria Constabulary is required to respond to the email which the Commissioner sent to it on 28 June 2021, namely:

"Please answer the following questions in relation to sections 12 and 16.

Section 12 – the cost of compliance exceeds the appropriate limit

Section 12(1) allows a public authority to refuse to comply with a request for information if the authority estimates that the cost of compliance would exceed the 'appropriate limit', as defined by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the Regulations).

The appropriate limit for yourselves is £450.

The Regulations allow a public authority to charge the following activities at a flat rate of £25 per hour of staff time:

- determining whether the information is held;*
- locating the information, or a document which may contain the information;*
- retrieving the information, or a document which may contain the information; and*
- extracting the information from a document containing it.*

With reference to the four activities set out above, please provide a detailed estimate of the time/cost taken to provide the information falling within the scope of this request.

When providing these calculations please include a description of the nature the type of work that would need to be undertaken (e.g. searching X number of files– 1 hour).

In providing this estimate please be aware that a number of Information Tribunals have made it clear that an estimate for the purposes of section 12 has to be 'reasonable' which means that it is not sufficient for a public authority to simply assert that the appropriate limit has been met; rather the estimate should be realistic, sensible and supported by cogent evidence.

Please clarify whether a sampling exercise has been undertaken in order to determine this estimate.

Please also confirm that the estimate has been based upon the quickest method of gathering the requested information, e.g. where possible databases would be used rather than searching manual files.

Section 16 – advice and assistance

Section 16 places a duty on a public authority to provide advice and assistance to someone making an information request, including helping an applicant refine a request so that it can be answered within the appropriate costs limit. Therefore, please clarify the nature of any advice and assistance given to the applicant in this case and if no advice and assistance was provided please explain why not.

I strongly recommend that your response is guided by recent decision notices, our guidance and our lines to take, which

demonstrate our approach to the exemptions and procedural sections of the FOIA. These can be found on our website.

Having revisited the request, you may decide to apply a new exemption. We will consider new exemptions but it is your responsibility to tell the complainant why the new exemption applies and to provide me now with your full submissions.

For the avoidance of doubt, you should now do the following.

- Consider whether to change your response to the information request, and let us know the outcome.*
- Send us your full and final arguments as to why you think the cost limit applies.*
- Answer all of the questions in this letter”.*

Failure to comply

9. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act, and may be dealt with as a contempt of court.

Right of appeal

10. There is a right of appeal against this information notice to the First-tier Tribunal (Information Rights). Information about the appeals process can be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504
Fax: 0870 739 5836
Email: grc@Justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

11. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this information notice is sent. If Notice of Appeal is served late the Tribunal will not accept it unless it is of the opinion that it is just and right to do so by reason of special circumstances.

Signed

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