

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

### **Decision notice**

**Date:** 25 February 2025

**Public Authority:** Chief Constable of Northumbria Police  
**Address:** Northumbria Police Headquarters  
Middle Engine Lane  
Wallsend  
Newcastle upon Tyne  
NE28 9NT

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

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1. The complainant has asked Northumbria Police questions about the information it might hold in a hypothetical situation. Northumbria Police did not answer the questions.
2. The Commissioner's decision is that the questions did not sufficiently describe any recorded information which was being sought and so they were not valid requests for information as defined under section 8(1)(c) of FOIA. It follows that Northumbria Police was not under the duty at section 1(1) of FOIA to confirm or deny whether it held information falling within scope, or to issue a formal refusal notice under section 17. However, Northumbria Police did not meet the obligation under section 16 of FOIA to offer reasonable advice and assistance to the complainant, by explaining to him that the request was invalid.
3. As an explanation is contained in this decision notice, the Commissioner does not require further steps as a result of this decision.

#### **Background and earlier request for information**

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4. On 12 July 2024, the complainant wrote to Northumbria Police and requested the following information:

"Under the freedom of information act please provide me with all the information that you hold regarding the following information:

1. Please provide the date when the West Yorkshire Police [sic] first used the Niche system.
2. Please provide the date when the West Yorkshire Police [sic] first used the Corvus system.
3. Please provide the date when the Kirklees Crime Clerical [sic] was first introduced.
4. Please provide me with all the information you hold regarding the achieving [sic] of historical information."
5. He subsequently clarified that all references to "West Yorkshire Police" should be replaced with "Northumbria Police". He specified that point (3) of the request should be amended to read "On what date did you first start using the HOLMES system?".
6. Northumbria Police asked for clarification regarding point (4) of the request; specifically, whether "achieving" should be read as "archiving" and what was meant by "all information".
7. The complainant responded on 16 July 2024, stating:

"I [sic] specifically looking for the policies and procedures for the deleting and/or archiving of historical records in relation to the transportation of child [sic] from the magistrate court to detention centre for the late 1960 to the early 1980 [sic]. There had to be some form of a chain of custody record that was produced whilst the child was in the custody of the police. I'm looking for the names of these documents and/or records and what policies and procedures regarding such documents were in place at the relevant time. If you intend using the section 12 exemption then I'm willing to work with you further."
8. Northumbria Police responded to the request on 8 August 2024. It explained that searches were conducted with the Digital Policing and Corporate Development Departments of Northumbria Police. It confirmed that it held some of the information described in the request. It disclosed information in respect of point (2). It said no information was held in respect of point (1), as Niche was not yet a live system. For point (3), it said it held no record of when it first started using HOLMES.
9. For point (4) of the request it said no information was held, explaining:

"We hold no information in regard to policies and/or procedures which may have been in place during the late 1960's to the early 1980's.

Outside of the Act we can advise that a Custody Record only documents activity whilst in police detention, therefore these would be

closed down by the Police once the individual is no longer in Police Custody. Therefore, the transport between the Court and detention facility would not be covered. A custody record may though contain information of any Local Authority (Social Services) who had involvement with the Child whilst in Police Custody and could possibly have then had further involvement at the court. However, custody records are retained for 10 years, and do not back [sic] to the period specified by your request.

...

Due to the different methods of recording information across 43 forces, a specific response from one constabulary should not be seen as an indication of what information could be supplied (within cost) by another. Systems used for recording these figures are not generic, nor are the procedures used locally in capturing the data. For this reason, responses between forces may differ, and should not be used for comparative purposes."

## **Request and response**

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10. On 8 August 2024, referring to its response to his earlier request, the complainant wrote to Northumbria Police and requested information in the following terms:

"To clarify:

If a child was in police custody 11 years ago and later alleged that the chief constable raped that child in the cell that he was been [sic] held in, according to your response, there would be no record [sic] information held anywhere, about that child actually been in police custody.

Furthermore, if that child was then charged with a [sic] offence and was then transported to the courts from the cells, if that same child was raped again whilst in transit to the court from the cells, it is the Northumbria Police determination that after 10 years no information would be held by the Northumbria Police.

For example, no custody records, no chain of custody evidence, no policy and procedures about interactions with a child detained in a police cell.

According to this response my assertions would be correct.

I look forward to the clarification."

11. Northumbria Police acknowledged receipt of this correspondence on 12 August 2024, stating it would make further enquiries and respond as soon as it was able.
12. Having heard nothing further, on 11 September 2024, the complainant wrote to Northumbria Police as follows:

"With regards to my request dated 8 August 2024 I now seek a review in relation to section 10 timeliness as I believe you have violated my information rights."
13. To date, Northumbria Police has not replied.

### **Scope of the case**

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14. The complainant contacted the Commissioner on 27 October 2024 to complain about the way his request for information had been handled. He said:

"My main concerns are with section 10 timeliness (more than 20 working days) and my request for a internal review timeliness [sic] (more than 40 working days)".
15. It was clear from his request correspondence and his complaint to the Commissioner that the complainant was concerned with Northumbria Police's failure to respond to his correspondence of 8 August 2024.
16. The Commissioner wrote to Northumbria Police on 4 November 2024, asking it to respond to that correspondence. Northumbria Police did not reply, either to the complainant or to the Commissioner.
17. In follow up correspondence, the complainant asked the Commissioner:

"...could you now provide me with a section 1(1) decision notice [sic] the public body fail to confirm or deny if it held the requested information, along with a section 10 decision notice (timeliness).

Please advise me of the next steps I should take and/or that the ICO will take to ensure that when a lawful request for information is submitted to a public body by of member of the public that public body can not side step its FOIA obligations and responsibilities by refusing to respond to a request and ignoring the ICO instructions."
18. Having taken into account Northumbria Police's response to the earlier request, and the wording of the complainant's correspondence to him, the Commissioner considers that the scope of his investigation is to consider whether Northumbria Police handled the complainant's correspondence of 8 August 2024 in compliance with FOIA. In doing so,

he has considered whether it comprised a valid request for information for the purposes of FOIA.

## Reasons for decision

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### Section 8 – request for information

19. Section 8 of FOIA deals with the validity of requests for information and states:

“...any reference to ‘a request for information’ is a reference to such a request which-

- (a) is in writing,
- (b) states the name of the applicant and an address for correspondence, and
- (c) describes the information requested”.

20. If a request does not comply with any of the requirements of section 8(1)(a) - (c), then it is invalid. This means there is no obligation for a public authority to confirm or deny whether the information is held under section 1(1), or to issue a formal refusal notice under section 17.
21. In this case, the complainant’s request was in writing, and he provided an address for correspondence. Therefore, the only issue for the Commissioner to consider is whether the request sufficiently described the information being sought.
22. Section 84 of FOIA defines ‘information’ for the purposes of section 1(1) of FOIA (ie information which an applicant can request under FOIA) as “information recorded in any form...”.
23. Therefore, in order to be a valid request for information under FOIA, not only must the complainant’s request satisfy the criteria in section 8, it must also be a request for **recorded** information. This means that a public authority is not required to create new information that it does not already hold (such as by answering a question or offering an opinion), in order to respond to an FOIA request.
24. The Commissioner’s [guidance on section 8](#) states that any description that allows the requested information to be distinguished from other information held by the authority will be a valid request under section 8(1)(c).
25. The Commissioner’s guidance also acknowledges that a request in the form of a question will be valid under section 8(1)(c), provided it

describes distinguishing characteristics of the recorded information being sought.

26. In this case, it is the Commissioner's view that the complainant's correspondence of 8 August 2024 does not describe particular recorded information which he wishes to have disclosed, nor does it identify distinguishing characteristics from which particular recorded information can be identified (in the way that his request for information dated 12 July 2024 clearly did). Rather, it asks for Northumbria Police's opinion on the likelihood of it holding information in the event of a hypothetical scenario. As explained in paragraph 23, FOIA does not require Northumbria Police to create information from which to answer the complainant's questions, and the Commissioner considers it highly unlikely that any responses to the questions (which are conditional on a hypothetical scenario) already exist in recorded form.
27. Accordingly, the Commissioner is satisfied that the complainant's correspondence of 8 August 2024 was not a valid request for information under section 8(1)(c) of FOIA as it did not describe the information that was being requested. As the Commissioner is satisfied that it was not a valid request for information, Northumbria Police was not under the duty at section 1(1) to confirm or deny whether it held information falling within scope, or to issue a formal refusal notice under section 17.

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

28. Section 16 of FOIA states that public authorities have a duty to provide advice and assistance, "...so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it". The Commissioner considers this duty to extend to requesters who have made requests which are invalid.
29. His guidance on section 8 clarifies that in such cases, he expects a public authority to issue a prompt response to the requester, explaining why their request was invalid under section 8.
30. As Northumbria Police did not do this, the Commissioner's decision is that it breached the requirement at section 16 to provide advice and assistance.

## **Other matters**

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31. When making any further requests, the complainant may find it helpful to refer to the Commissioner's [guidance](#) on how to write an effective request for information.

## **Right of appeal**

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32. 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)

33. 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.
34. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Samantha Bracegirdle**  
**Senior Case Officer**  
**Information Commissioner's Office**  
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