

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 May 2025

Public Authority: Chief Constable North Wales Police
Address: Glan Y Don
Abergele Road
Colwyn Bay
LL29 8AW

Decision (including any steps ordered)

1. The complainant has requested information about police officers administering an emergency antidote for drug overdoses. North Wales Police ("NWP") relied on section 12(1) (cost of compliance) of FOIA to refuse the request.
2. The Commissioner's decision is that NWP was entitled to rely on section 12(1) of FOIA to refuse the request. However, the Commissioner also finds that NWP did not comply with its section 16 obligation to offer advice and assistance.
3. The Commissioner requires NWP to take the following steps to ensure compliance with the legislation.
 - provide the complainant with appropriate advice and assistance to help them submit a request that may fall within the appropriate limit.
4. NWP must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 31 October 2024, the complainant wrote to NWP and requested information in the following terms:

 "1) How many Police Officers in North Wales Police are trained to administer nasal Naloxone?

 2) Are the officers trained carrying it voluntarily or are they mandated?

 3) How many times have officers administered nasal Naloxone since 16/3/23?"
6. NWP responded on 11 November 2024. It provided responses to parts 1 and 2 of the request, and advised the complainant to contact the Betsi Cadwaladr University Health Board (BCUHB) for the information at part 3 of the request.
7. The complainant requested an internal review of NWP's response to part 3 of the request. Following an internal review NWP wrote to the complainant on 3 December 2024. It stated that the cost of retrieving the requested information exceeds the appropriate limit, therefore it revised its position to rely on section 12(1) of FOIA to refuse part 3 of the request.

Reasons for decision

Section 12 – cost of compliance

8. The following analysis covers whether complying with the request would have exceeded the appropriate limit.
9. Section 12(1) of FOIA 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" as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Fees Regulations").
10. The appropriate limit is set in the Fees Regulations at £600 for central government, legislative bodies and the armed forces and at £450 for all other public authorities. Therefore the appropriate limit for NWP is £450.
11. The Fees Regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that section 12(1) effectively imposes a time limit of 18 hours for NWP.

12. Regulation 4(3) of the Fees Regulations states that a public authority can only take into account the cost it reasonably expects to incur in carrying out the following permitted activities in complying with the request:
 - determining whether the information is held;
 - locating the information, or a document containing it;
 - retrieving the information, or a document containing it; and
 - extracting the information from a document containing it.
13. 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. 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 request.
14. Section 12 is not subject to a public interest test; if complying with the request would exceed the cost limit then there is no requirement under FOIA to consider whether there is a public interest in the disclosure of the information.
15. Where a public authority claims that section 12 of FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of FOIA.

The complainant's position

16. The complainant stated that it is inconceivable that NWP does not have a system whereby they can easily retrieve information on how often their officers administer a medical intervention. They further argued that NWP had complied with a similar request previously. Finally they argued that it is the Police's policy to request an ambulance every time Naloxone is administered.

NWP's position

17. NWP explained that it does not routinely record, and in fact has no obligation to record, the number of times its officers have administered nasal Naloxone. The only requirement on NWP is that BCUHB are informed when there has been an occurrence of Naloxone being administered.

18. NWP further explained that it does not have a specific location or field within its incident recording system from which it can readily obtain the requested information. NWP conducted a search of its incident recording system using the terms 'Naloxone' and 'Narcan' (a brand name for Naloxone) which returned 83 records. However, given that many of these records were located under the brand name of Narcan rather than Naloxone, it would not be possible for NWP to locate all records within the scope of the request without searching for every brand name.
19. NWP also highlighted that its ability to search for the particular information within the scope of the request is further restricted as it has no way of identifying records whereby 'Naloxone', or any of the brand names, have been spelt incorrectly. Nor are its searches able to locate records where a call handler has simply described that a nasal drug replacement has been used, without referring to the specific name.
20. NWP concluded that the only possible method to obtain an accurate figure to comply with part 3 of the request would be to review each incident record covered by the timeframe of almost 20 months set out in the request. NWP confirmed that this would cover tens, if not hundreds, of thousands of records, and that would without question exceed the 18 hour appropriate limit.

The Commissioner's conclusion

21. The Commissioner is satisfied that complying with part 3 of this request would exceed the appropriate limit.
22. The Commissioner notes the complainant's reference to a previous similar request which NWP had complied with. Having reviewed NWP's response to that previous request, it is apparent that the scope of the request at that time only covered a very small number of officers who were trained as part of an initial pilot, rather than all warranted officers with a valid first aid certificate in NWP that the current request covers. Therefore, the number of records that would need to be searched in order to comply with the previous request would clearly be far fewer.
23. The Commissioner accepts NWP's explanation of the limitations to its ability to search for and locate information within the scope of the request as reasonable. Therefore, he also considers it entirely plausible that NWP would need to review every record within the relevant timeframe in order to fully comply with the request, which would undoubtedly exceed the appropriate limit.
24. The Commissioner therefore finds that NWP was entitled to rely on section 12(1) of FOIA to refuse the request.

Procedural matters

Section 16 – advice and assistance

25. Section 16 of FOIA requires public authorities to provide reasonable advice and assistance to those making, or wishing to make, information requests.
26. When a public authority refuses a request because the cost of compliance exceeds the appropriate limit, it should explain, to the requester, how they could refine their request such that it would fall within that limit. In rare cases, it will be appropriate for the public authority to explain to the requester why their request cannot be meaningfully refined.
27. In this case, whilst NWP provided the complainant with the details of another public authority who would likely be better placed to assist them with the information at part 3 of their request, it does not appear to have offered any advice and assistance to the complainant in terms of submitting a refined request to itself.
28. NWP must now provide reasonable advice and assistance, to the complainant, to help them refine their request.

Right of appeal

29. 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

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

Michael Lea
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