

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 December 2022

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, from the Metropolitan Police Service (the "MPS"), information held in its Project Alpha database. The MPS advised that to provide the requested information would exceed the cost limit at section 12(1) of FOIA.
2. The Commissioner's decision is that the MPS was entitled to cite section 12(1). No steps are required.

Request and response

3. On 8 March 2022, the complainant wrote to the MPS and requested the following information:

"The date of birth of the youngest person recorded on the Project Alpha Database and the date that they were first added to the database".
4. On 14 April 2022, the MPS responded. It advised that to comply with the request would exceed the cost limit at section 12(1) of FOIA.
5. The complainant requested an internal review on 14 April 2022, saying:

"As this project is dealing with children and special measures need to be taken when processing the personal data of children there must be some records documenting the ages of the people involved and it should be easy for the Met to supply this information".

6. The MPS provided an internal review on 13 May 2022, in which it maintained its original position.

Scope of the case

7. The complainant contacted the Commissioner on 17 May 2022 to complain about the way his request for information had been handled. The Commissioner required further information from him which was provided on 30 May 2022.
8. The complainant asked the Commissioner to consider the application of section 12 to the request. The Commissioner will consider this below.

Reasons for decision

Section 12 – cost of compliance

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.
10. 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.
11. 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.
12. Section 12 of the 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 the MPS was reasonable; 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.

13. The MPS explained to the complainant:

“To locate, retrieve and extract the information you have requested is not an easy task as you suggest. To comply with your request requires the interrogation and cross referencing of records to determine the youngest person’s date of birth within the scope of your request.

The Review takes due regard to the following explanation from our initial response:

‘An individual’s date of birth is not information recorded on the Project Alpha database (which is maintained as a record of work) as a matter of course. To locate and extract the youngest date of birth a member of staff would need to manually interrogate each individual entry and most likely additional police indices to identify this information. Due to the number of entries on the tracker, I have found that answering your request would exceed the 18 hour research/cost limit of the Act.’

To provide you with a reasonable estimation if it took between 5-10 minutes to read each record, this would equate to between 20 – 41 hours for every 250 records. It is this aspect of your request which will exceed the appropriate threshold”.

14. The Commissioner has previously viewed the Alpha database¹ when undertaking a different investigation. His decision notice in that case provides more details about its use and structure.

15. He is therefore aware that there is no specific date of birth field in the database that the MPS would be able to search. It is therefore not a mandatory field to complete and dates of birth could be recorded in free text fields. Furthermore, dates of birth may not have been recorded on the Alpha database at all, but may be available elsewhere, if further searches were undertaken on other systems. Therefore, whilst the complainant believes that retrieval should be easy this is, in practice, not the case. For its own business purposes, the MPS is unlikely to need to undertake a search based on a date of birth. Were it required to find

¹ <https://ico.org.uk/media/action-weve-taken/decision-notices/2021/2619961/ic-58919-t8h2.pdf>

someone's date of birth, its initial action would be to do so by first searching for a person's name.

16. The Commissioner also notes that, were it available, the date of birth may be considered to be personal information if it could be used to identify someone. In such circumstances, it would be unlikely to be disclosable under FOIA.
17. Having considered the estimates provided, the Commissioner finds that they are realistic and reasonable. He therefore accepts that to provide the information would exceed the appropriate limit.

Section 16 – advice and assistance

18. Section 16(1) of the FOIA provides that a public authority is required to provide advice and assistance to any individual making an information request. 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.
19. In this case the MPS has given an explanation to the complainant about how the information is held and why compliance would exceed the limit. Based on the wide-ranging wording of this request, the Commissioner concludes that there was no easy way for the MPS to suggest how he could refine it. Accordingly the Commissioner finds no breach.

Other matters

20. Although it does not form part of this notice the Commissioner wishes to include the following.
21. The Commissioner has been provided with the following information from the MPS, which may be of interest to the complainant:

“On 1st April 2022 we launched a new case referral system. The purpose of which was exactly the same as for the database previously viewed by the ICO but was [sic] launched to streamline the referral process and improve accuracy in the capture of data metrics we report. The new referral system includes a field for a subject's date of birth however this is not a mandatory field so it still stands that the date of birth may not be recorded at all. The reason for capture of date of birth is to assist with the identification of the correct subjects for case work but is not an essential data point to progress Alpha's work.

Reference: IC-171071-N1D3

In relation to records on the database there are currently almost 7,000 records ...”.

Right of appeal

22. 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

23. 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.
24. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

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