

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 3 December 2012

**Public Authority:** The Chief Constable  
**Address:** Thames Valley Police  
Police Headquarters  
Oxford Road  
Kidlington  
Oxfordshire  
OX5 2NX

#### Decision (including any steps)

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1. The complainant has requested information about the number of sexual assaults and rapes reported where the offender was a taxi or private hire driver. The public authority confirmed that it held information but advised that to comply with the request would exceed the appropriate limit. The Information Commissioner's decision is that the public authority has correctly applied section 12(1) of FOIA as a basis for non-disclosure of the requested information. He does, however, find that it breached section 16 in failing to give adequate advice and assistance. He does not require any steps to be taken.

#### Background

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2. This request can be followed on the '*what do they know*' website<sup>1</sup>. The complainant has made the same, or very similar, requests to a number of other police forces. These can also be found on this site.

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<sup>1</sup> [http://www.whatdotheyknow.com/request/sexual\\_assaults\\_and\\_rapes\\_33](http://www.whatdotheyknow.com/request/sexual_assaults_and_rapes_33)

## Request and response

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3. On 23 July 2012, the complainant wrote to the public authority and requested information in the following terms:

*"Can you please tell me how many sexual assaults and rapes have been reported in your area in the last 12 months where a Taxi or Private hire driver has been implicated as the offender".*

4. The public authority responded on 20 August 2012. It stated:

*"Thames Valley Police is unable to provide data for this application as it does not record the occupation of the alleged offender in a format which allows it to retrieve the information requested. It is not possible to search our systems in this way and we cannot therefore retrieve meaningful data".*

It did not cite any exemptions.

5. Following an internal review the public authority wrote to the complainant on 31 August 2012. It stated that to provide the information requested would exceed the appropriate limit in section 12(1) of the FOIA.

## Scope of the case

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6. On 4 September 2012 the complainant contacted the Information Commissioner to complain about the way his request for information had been handled.
7. The Information Commissioner confirmed that he would consider the public authority's application of section 12(1).

## Reasons for decision

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### Section 12 – cost of compliance

8. 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.
9. 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').

10. Paragraph 4(3) of the Regulations states:

*"In a case in which this regulation has effect, a public authority may, for the purpose of its estimate, take account only of the costs it reasonably expects to incur in relation to the request in-*  
*(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 its 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.

*Records held*

13. The public authority confirmed that it does hold relevant information. However, it has stated that it is not held in an *"easily retrievable format"*. It went on to explain that in order to ascertain whether or not a taxi or a private hire driver was implicated would involve looking at each individual record of these types of incidents.

14. It did not provide the complainant with any further breakdown but did explain to him:

*"Due to the different methods of recording information, a specific response from one police force should not be seen as an indication of what information could be supplied (within costs) by another force using different data systems. For this reason responses between forces may differ, and should not be used for comparative purposes"*.

15. In responding to the Information Commissioner the public authority has provided these further explanations.

*"... [O]ur crime recording "Cedar" is unique to Thames Valley Police and does not have a searchable field for occupation i.e.*

*taxi/private hire driver. To determine if the information is held reports would have to be generated and run for all rapes and sexual assaults within the time period of the request to provide a list of crime reference numbers.*

*Each individual crime reference would need to be manually entered into the crime recording system, the case opened and the details of the investigation/case would have to be read to determine if a taxi or private hire driver was implicated as the offender.*

*To provide you with an estimate of the costs involved in attempting to provide a response to the request we generated scans for all rapes and sexual assaults for the period 1st July 2011 to 30th June 2012 and extracted ten random crime reference numbers from the scan to get an estimate of retrieval time which is detailed below.*

*The scan produced 1213 cases in the time period for rape and sexual assaults. An expert user of our crime recording system then individually entered each of the 10 reference numbers to read the case details to determine whether or not the records contained information relevant to the request which took 20.25 minutes to complete.*

*Based on the above and the following calculations we estimate that it would take at least 40 hours to extract the information relevant to the request.*

*1213 records divided by 10 = 121.3  
Multiplied by 20.25 minutes = 2456.5 minutes in total  
Divided by 60 = 40.94 hours.*

*In addition to this to generate a report query and check if working correctly would take approximately 1 to 2 hours.*

*As you will see from the above calculation this is far in excess of the "Appropriate Limit" as stated in the Freedom of Information (Fees and Appropriate Limit) Regulations 2004".*

16. The Information Commissioner understands that the public authority's crime recording system does not allow it to search for information which falls into the parameters set by the complainant. He notes that the public authority has located 1,213 records which will include those requested by complainant and that it would need to consider each record individually to ascertain whether or not it falls within the scope

of the request. He further notes that the public authority has based its timing calculations on a sampling test.

17. The Information Commissioner notes that the complainant has had some information provided by other police forces. However, it is important to note that forces have different information systems. Therefore, although other forces may be able to provide some information it does not follow that they can all provide similar responses.
18. Having considered the estimates provided the Information 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**

19. 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 Information Commissioner does recognise that where a request is far in excess of the limit, it may not be practical to provide any useful advice.
20. In this case the public authority had not clearly explained to the complainant how the information is held and why compliance would exceed the limit. The Information Commissioner notes that the public authority did not provide any suggestions as to how he might refine a request in order for it to be dealt with within the appropriate limit; furthermore, it did not provide any sort of breakdown of costs which might assist him in formulating an alternative request.
21. As the public authority's responses to the complainant did not offer any suggestions for refinement or provide an adequate breakdown and explanation of how the information is held, the Information Commissioner finds that it breached section 16 of the FOIA. However, as there is now sufficient information within the content of this decision notice he does not require the public authority to take any steps. If the complainant wishes to submit a refined request to the public authority it is open to him to do so.

## Right of appeal

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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: 0300 1234504  
Fax: 0116 249 4253  
Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

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** .....

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**