

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 June 2020

Public Authority: Commissioner of the Metropolitan Police Service

Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant has requested budgetary information from the Metropolitan Police Service (the "MPS"). The MPS advised that to comply with the request would exceed the appropriate limit at section 12 of the FOIA. The complainant did not consider that the MPS had provided him with adequate advice and assistance about his request, as required under section 16 of the FOIA.
2. The Commissioner's decision is that the MPS complied with its duty under section 16 of the FOIA. No steps are required.

Request and response

3. On 29 December 2019, the complainant wrote to the MPS and requested information in the following terms:

"I would like to request figures for the Met Police's annual spending on covert surveillance equipment going back to 2012.

Please can you provide the information in excel format".
4. On 19 February 2020, the MPS responded and refused to provide the requested information advising that to do so would exceed the appropriate limit at section 12 of the FOIA.
5. The complainant requested an internal review on 19 February 2020.

6. The MPS sent the outcome of its internal review on 28 February 2020. It maintained its position.
7. On 28 February 2020, the complainant wrote to the MPS again, copying in the Commissioner, saying:

"I think we could have sorted this out quite quickly if you had given me a telephone call as I suggest.

I would like to contest this internal review on the ground that i think that it would be "reasonable" for the Met to give me some guidance on how to refine my request.

Things that would help me narrow my request include:

Can I reduce my request to a certain type of surveillance equipment?

Can I reduce my request to a certain division [sic] of the Met?"

8. On 2 March 2020, the MPS responded and provided details of the advice and assistance it had already given.

Scope of the case

9. Having received a copy of the email referred to above, the Commissioner wrote to the complainant on 10 March 2020, requiring further information. This was received on 17 March 2020.
10. On 3 June 2020, the Commissioner wrote to the complainant again requiring his grounds of complaint as these had not been provided and it was unclear whether or not he disagreed with the citing of section 12 of the FOIA or something else.
11. On 4 June 2020, the complainant responded saying only: "section 16".
12. The Commissioner will therefore consider whether or not the MPS provided adequate advice under section 16 of the FOIA, below.
13. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the FOIA. The FOIA is concerned with transparency and provides for the disclosure of information held by public authorities. It gives an individual the right to access recorded information (other than their own personal data) held by public authorities. The FOIA does not require public authorities to generate information or to answer questions, provide explanations or give opinions, unless this is recorded information that they already hold.

Reasons for decision

Section 16 – advice and assistance

14. Section 16(1) of the FOIA provides that a public authority should give advice and assistance to any person making an information request, so far as it would be reasonable to do so. 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.
15. The complainant has specifically raised concerns that the MPS has not complied with its obligations under section 16 of the FOIA, albeit he did not actually specify what these concerns are.
16. In respect of its initial response to the complainant, the MPS advised him that it would be unable to comply with his request within the cost threshold because:

"For us to provide you with this figure would require contacting every BOCU [Borough Operational Command Unit] and Specialist unit and department within the MPS and asking them to go through all equipment purchased in the last 8 years and seeing if the equipment purchased was for covert use or not and then calculate the cost of each item. This is because this information is not recorded centrally on an easily searchable data base so a huge effort and time would be required to complete this request".

17. The MPS further explained, under section 16, that:

"An authority is required to offer an applicant the opportunity to redefine their request within the cost limit. Unfortunately due to the rationale noted above, I am unable to suggest any practical way in which your request may be modified in order to bring it within the 18 hours stipulated by the Regulations".

18. In respect of its response to the complainant's request for an internal review, the MPS advised him:

"You have asked for the MPS' annual spend on covert surveillance for the last 8 years. You have not limited your request to any specific MPS department or any particular type of covert surveillance equipment. Additionally, your request spans a wide period of time. Your request could cover a wide range of equipment such as covert vehicles, the servicing and maintenance of any such

vehicles, cameras and associated equipment, mobile phones, laptops etc.

The IM [Information Manager] who dealt with your request advised you that due to the rationale given in their response to you that they could not offer any practical means of redefining your request so that it falls within the cost threshold. The Review therefore considers that the MPS has complied with Section 16 of the Act, however, having reviewed your request, it would have been helpful to advise you that even if the timeframe or the scope of your request were significantly reduced, your request would likely attract exemptions under the Act due to the type of information requested”.

19. The MPS went on to further explain why exemptions might apply to the requested information, were his request sufficiently refined to fall within the cost threshold. This was reiterated when it responded to the email which the complainant sent following his internal review.
20. In responding to the Commissioner’s enquiries, the MPS advised her as follows:

“In this case, the MPS explained to [the complainant] on three separate occasions 19/2/2020, 28/2/2020 and 2/3/2020 how the information was held and reasons why [compliance] would exceed the limit. Although the MPS have been unable to assist with the narrowing of [the complainant]’s request sufficiently to allow disclosure of any information the reasons being that on this occasion it was not practicable. The policing systems we have are specifically designed for policing purposes, the information [the complainant] requires is not readily accessible in the format he is requesting. The MPS also explained to [the complainant] that even if the timeframe of his request were significantly reduced it would be highly likely to attract exemptions under the Act due to the information being requested”.

21. In this case, the MPS has explained to the complainant how the information is held and why complying with the request would exceed the limit. Although it has been unable to assist with narrowing the request sufficiently to allow disclosure of any information, the Commissioner recognises that, on this occasion, this has not been practicable. Its policing systems have been designed for policing purposes and the information that the complainant requires is not readily accessible as it is not something which is required by the MPS in the format that has been requested. The Commissioner cannot see any easy way in which the complainant’s request could be responded to.

22. The Commissioner notes that when requesting an internal review the complainant started by suggesting that the MPS should have called him to try to assist with his request. Whilst this might be useful, particularly when a request needs to be clarified, it is not something which can be required under the FOIA. Indeed, were this practice to be expected for all requests, the Commissioner accepts that it would be particularly onerous and impractical for a public authority to be expected to maintain such an approach.
23. The Commissioner considers that the MPS has tried to explain how it holds its information and has thereby provided adequate advice and assistance to the complainant. Accordingly, she finds that it has complied with its duties under section 16.
24. Based on the wide-ranging wording of this request, the Commissioner concludes that there was no easy way for the MPS to suggest how it might be refined. She therefore finds there was no breach of section 16.

Right of appeal

25. 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: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

26. 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.
27. 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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