

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 July 2021

Public Authority: Chief Constable of Staffordshire Police
Address: Police Headquarters
Weston Road
Stafford
ST18 0YY

Decision (including any steps ordered)

1. The complainant has requested copies of 'problem profile assessments' related to child sexual exploitation from Staffordshire Police (SP). Having initially cited section 14 (Vexatious or repeated requests) to refuse to comply with the request, SP subsequently advised that to comply with it would exceed the appropriate limit at section 12 (Cost of compliance exceeds appropriate limit) of the FOIA.
2. The Commissioner's decision is that SP was entitled to refuse to comply with the request on the basis of section 12(1) and that there was no breach of section 16(1) (Advice and assistance) of the FOIA. No steps are required.

Background

3. According to SP, a 'problem profile assessment' would be:

"... a document that could contain an introduction / key findings / key people / key threats / threat assessment / recommendations / nominal assessments (not an exhaustive list). Generally the purpose would be to identify individuals / locations / threats to enable effective policing to be carried out".

Request and response

4. On 27 August 2020 the complainant wrote to SP (and other police forces) and requested information in the following terms:

"I am sending this request under the Freedom of Information Act.

Please provide a copy of all problem profile assessments produced or commissioned by your police force related to child sexual exploitation in your force area from January 1st 2010 to date.

I accept some limited exemptions may well be required under section 31 in relation to the processing of this request. However, as you will be aware, section 31 cannot be used in a blanket manner, and all information that does not explicitly trigger section 31 must be released.

There is a very strong public interest in the release of most of this information, to ensure the public is fully aware of risks in their police area. Outside of specifics that would be subject to section 40 redactions anyway, it is unlikely that much of this information would be useful to potential perpetrators.

As such, please ensure each redaction is properly justified in line with the act, after a full and considered public interest test".

5. On 10 September 2020, SP responded. It refused to provide the requested information, advising the complainant that the request was vexatious and citing section 14(1) of the FOIA.
6. Following an internal review, SP wrote to the complainant on 17 September 2020. It maintained its position.
7. During the Commissioner's investigation SP revised its position, instead citing the appropriate limit at section 12(1) of the FOIA.

Scope of the case

8. The complainant initially contacted the Commissioner on 20 October 2020 to complain about the way his request for information had been handled; his grounds were based on the citing of section 14(1) of the FOIA.
9. Following SP's changed position, his revised grounds of complaint regarding the citing of section 12 were as follows:

"The force's application of section 12 is a major overestimate of the cost of compliance. The force's approach is to think of every location a profile could be, rather than using institutional knowledge or common sense to work out whether they are most likely to be. This is not a reasonable estimate.

Problem profiles are documents actively used by child protection teams, and will have been shared within Staffordshire police's relevant teams. The force has apparently not simply asked the team what profiles it has considered over the period of the request, which would constitute a reasonable search for the requested records, and will fairly cover the scope of my request. 31 other forces have been able to locate and provide copies of these reports, so it seems vanishingly unlikely that Staffordshire's method of holding these profiles makes it impossible to respond within cost limit.

I am concerned that the force is attempting to find an excuse not to disclose these records, rather than trying to work to meet its transparency requirements under the act. This is particularly concerning given the seriousness of the crimes concerned, and the importance of proper accountability of a force's activities in this area of policing, especially given the large number of child sexual exploitation scandal that have rocked the country in recent years".

10. The Commissioner will consider below whether SP was entitled to rely on section 12(1) of the FOIA to refuse to comply with the request.

Reasons for decision

Section 12 – Cost of compliance exceeds appropriate limit

11. 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.
12. 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."*

13. 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.
14. 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 SP 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.
15. SP has advised the complainant that it does hold relevant information. It explained the following:

"... I wish to advise you that whilst I can confirm that Staffordshire Police does hold the information requested, the force claims the provision under Section 12(1) of the Act (where the cost of compliance exceeds the appropriate limit). 'Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the prescribed limit'. This is because there is no easily retrievable or centralised system to extract the requested information. It has been established that it would entail searching 20 file storage areas, each one of which contains hundreds of sub folders with potentially thousands of documents. Profiles are not titled 'CSE' [child sexual exploitation] in the majority of cases, therefore, every single profile would need to be read to establish if there is a 'CSE' element to the profile. To provide an example of searching for the information, two members of staff spent a total of 14 hours searching one sub folder where ten profiles were retrieved, which are not in year order. Therefore, to provide the requested information would exceed the 18 hour time and cost threshold stipulated by the FOI Act.

Unfortunately, I am unable to assist in refining your request because the profiles are not dated within the title and the sub folders are not kept by year so they would all have to be read".

16. In further correspondence with the Commissioner it provided the following additional details regarding the work that would be required in respect of engaging the cost limit:

"Determining if the information is held;

I have established that the information is held.

Locating the information;

It is known that the information is held in 20 R drive storage locations that each contain 100's of sub folders with potentially 1000's of documents and these can be accessed by the data holder.

Retrieving the information;

I have asked for a sample of the profiles to be provided and 2 members of staff spent all day (7 hours x 2 = 14 hours) retrieving just 10 profiles from one sub folder.

Extracting the information to be disclosed from the other information;

Profiles are not titled 'CSE' in the majority of cases so the staff have to read through every single profile to establish if there is a CSE element to the profile. For example the profile could be titled 'Mickey Mouse Park' and when read the profile contains issues of ASB, littering, drugs offences and CSE that are all occurring in the park.

The smallest profiles contain 30-40 pages and the largest run into 100's of pages".

17. The Commissioner made further enquiries to SP. She asked it to explain how / why the requested information was stored in "20 R drive storage locations". She was advised:

"The organisation does not have one electronic system for storing documents so each business area has access to a file storage area, Restricted Share (R) drive, there is also a Confidential Share drive that would be used by departments like Special Branch. The folders in the R drive can only be accessed by nominated people within that business area and it is where a variety of documents would be stored in line with our retention schedules.

For example the Central Disclosure Unit has R drive folders one of which is the CDU Management folder only accessed by the CDU management team, the email I am sending to you now would be stored in the correspondence folder relating to this ICO appeal. I have asked our Information Security office to establish how many documents were in the data holders folders and they stopped running the search when it hit 500,000.

Under the police National Enabling Programme we are moving to Microsoft 365 and SharePoint which will offer us better storage options for our data".

18. The Commissioner raised further queries, seeking to establish who the 'data holders' were and why there are 100s / 1000s of sub-files that would need to be checked. She also enquired whether there was any particular business area which held this information or a file structure for this type of information. SP advised:

"... the current data holder for this data is the Knowledge Hub (KH) which was formed in 2019 by bringing together different intelligence and analytical functions. This was not the first re structure of these business functions as they had also previously been at the local policing sites and were then brought into headquarters in different departments. The profiles would have been stored by all these different teams that have now been amalgamated into the KH with the storage files simply migrated across hence the 20 [R drive storage locations] (so for example the analysts based at a local police station would have prepared profiles for that area and stored them in their R drive folders how they chose, these have then been migrated across to the KH). The Restricted share is the only storage portal currently available to store these types of documents until the National Enabling Programme kicks in later this year".

19. SP clarified that the KH was created by the merging of the Force Intelligence Bureau, Service Delivery Unit, Real Time Intelligence and Research & Analysis team, who would have all done the type of profile assessments requested and would have stored it using different formats and titles; prior to this it advised that this type of work was done at a local policing level by local analysts who again stored it in different formats.
20. The Commissioner notes that the complainant has queried why SP has *"not simply asked the team what profiles it has considered over the period of the request"*. However, it is apparent from its response that this is not as straightforward a task as the complainant believes. SP explained that enquiries had been made of the current relevant team, ie the KH, but added that there is not just one 'team' that has covered the ten years' work caught by the scope of the request. SP has explained above that many 'teams' would have prepared this type of information over the ten year period stated and that their work has now been migrated onto one system, which, unfortunately, is not readily searchable due to a lack of standardised naming conventions to limit the searches required.
21. The Commissioner notes that the complainant has received some of the information when the request was submitted to other police forces. However, it is important to note that not all forces have the same IT systems and they do not all store their information in a comparable way. Therefore, although other forces may have been able to provide some

information within the cost limit, it does not follow that every force can also do so. It is also noted that SP aims to update its IT system shortly at which point some information may become more readily accessible.

22. Having considered the estimates provided, the Commissioner finds that they are realistic and reasonable. She therefore accepts that for SP to comply with the request would exceed the appropriate limit and that it was entitled to rely on section 12(1) of the FOIA to refuse the request

Section 16 – advice and assistance

23. 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 where 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.

24. In this case SP has advised the complainant that the profiles are not dated within their titles, there is no naming convention which would identify those which specifically relate to CSE, and sub folders are not organised into years. It would therefore be necessary to read all of them to ascertain whether or not they contain any information which would fall within the scope of the request. SP confirmed to the Commissioner:

“all of the profiles are just in the folders without dates so they would still have to go into each profile to see what the date was and then if it was relevant to CSE”.

25. Whilst this is unfortunate, the Commissioner accepts that there is no obvious way to reduce the request so that it could be dealt with within the appropriate limit.

Right of appeal

26. 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

27. 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.

28. 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
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