

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 11 August 2021

**Public Authority:** Chief Constable of Surrey Police  
**Address:** PO Box 101  
Guildford  
Surrey  
GU1 9PE

#### **Decision (including any steps ordered)**

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1. The complainant requested from Surrey Police information in relation to landlord/tenant disputes. Surrey Police relied on section 12(1) of the FOIA to refuse to comply with the complainant's request as it considered the cost of doing so would exceed the appropriate limit.
2. The Commissioner's decision is that Surrey Police has correctly cited section 12(1) FOIA in response to the request.
3. The Commissioner does not require Surrey Police to take any steps as a result of this decision notice.

#### **Request and response**

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4. On 26 July 2020, the complainant wrote to Surrey Police and requested information in the following terms:

*"I would like to know please the number of landlord/tenant dispute cases you had over the lockdown and how many did the police intervene."*

5. Surrey Police responded on 29 July 2020. It decided to refuse to comply with the complainant's information request stating that the information requested could not be retrieved within the time and costs limit. Surrey Police cited section 12 of FOIA as its basis for this refusal.
6. Remaining dissatisfied with the response received, the complainant wrote back to Surrey Police on the same day to object to its decision to refuse their request for information. For the purpose of FOIA this communication was treated as a request for internal review.
7. Following an internal review Surrey Police wrote to the complainant on 24 November 2020. It provided the complainant with additional explanations, but it did not change its position regarding the application of section 12 of FOIA in relation to the information request in question.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 9 December 2020 to complain about the way their request for information had been handled.
9. The scope of this case and the following analysis is to consider whether Surrey Police was correct to apply section 12(1) of FOIA to the request in this case and whether it complied with its obligations under section 16 of FOIA.

### **Reasons for decision**

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#### **Section 12 – cost of compliance exceeds the appropriate limit**

10. Section 12 of FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate cost limit to:
  - either comply with the request in its entirety, or
  - confirm or deny whether the requested information is held.
11. In this case Surrey Police relied on section 12(1), meaning that it estimated that it would exceed the time and cost limit to comply with the request in its entirety.
12. The estimate must be reasonable in the circumstances of the case. The appropriate limit is £600 for central government departments and £450 for all other public authorities. The cost of complying with a request should be calculated at the rate of £25 per hour - 24 hours work for

central government departments; 18 hours work for all other public authorities. In forming a cost estimate a public authority can take into account the time taken to:

- (a) determine whether it holds the information,
  - (b) locate the information, or a document which may contain the information,
  - (c) retrieve the information, or a document which may contain the information, and
  - (d) extract the information from a document containing it.
13. The appropriate limit for police forces is £450 or the equivalent of 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 Surrey Police 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 so it was not obliged to comply with the request.
15. In its response to the complainant Surrey Police asserted that the information it held in recorded form within the scope of the information request was not in an easily retrievable format. Surrey Police added that *"As there is no specific Incident/Crime categorisation of Landlord/Tenant Dispute, such incidents may be recorded under a wide variety of headings including, but not limited to 'Civil Dispute', 'ASB', 'Harassment' 'Other Crime' etc. To identify if any relevant information is captured, would require a manual review of thousands of potential incidents captured utilising key words 'Landlord', 'Tenant', 'Dispute', 'Landlord/Tenant' etc. etc. Key word searches are by their very nature unreliable – they may not capture any/all relevant incidents, nor provide context as to its prevalence to the incident (only that the word, or part/words appear at some point within the text)."*
16. Surrey Police went on to explain that *"this would again necessitate a manual review of hundreds, if not thousands of potential 'hits' to filter results/ identify whether or not it related to any of the requested information, before attempting the further breakdown of information relating to intervention."*

17. The Commissioner asked Surrey Police to provide her with a detailed estimate of the time it would take to comply with the requests and the costs that would be incurred as a result of this process.
18. Surrey Police explained that currently it uses a case management system (application) called *ICAD*, which serves to *"record and grade incoming calls and dispatch resources to incidents."* It provided the Commissioner with a screenshot of its management system which shows a pre-defined list of 62 event types according to which *ICAD* categorises incidents reported. This is a closed list and it does not contain a category as per the complainant's request, that is *"landlord/tenant dispute"*.
19. Surrey Police added that in order to conduct a specific search on *ICAD* it must select at least one event type from the list and as there is no *"landlord/tenant dispute"*, it would have to categorise, which presumably would cover incidents that the complainant requested information about. Surrey Police stated: *"It is feasible that a Landlord / Tennant dispute may depending on the exact circumstances, have been tagged as Domestic Incident, a Civil Dispute, Anti-Social Behaviour, a Crime and so on. A manual search would be required to search for the relevant words."*
20. In her investigation letter, the Commissioner asked Surrey Police to clarify whether a sampling exercise has been undertaken in order to determine its estimate that complying with the present request would exceed the appropriate cost limits.
21. Surrey Police explained that *ICAD* has its own search engine and if a search for *"Civil Disputes"* recorded in the first half of 2021 is conducted, it will have 704 events identified. Surrey Police added that *"At a conservative estimate of 5 minutes to read each record, to establish if it was relevant and if the police intervened it would take nearly 60 hours."* Surrey Police provided another example, using the category *"Other Crimes"* for the same period of time, which for a single month returned 3,898 incidents recorded.
22. Surrey Police concluded that whilst it is able to provide responses to many statistical, time based requests, in this case and for the reasons outlined above, attempting to provide a response is not possible within the cost regulations and due to the high figures involved.
23. On the basis of this explanation from Surrey Police, the Commissioner accepts that the estimate of the time necessary to comply with the request is reasonable.

24. The Commissioner accepts that the cost estimate made by Surrey Police was reasonable and therefore section 12(1) was correctly engaged in relation to the complainant's request. Therefore, the Commissioner concludes that Surrey Police correctly applied section 12(1) of FOIA in this case.

### **Section 16 – Advice and Assistance**

25. Under section 16(1) of FOIA Surrey Police was obliged to provide the complainant with advice and assistance to help enable the complainant to refine the request to fall within the cost and time limit or explain why this would not be possible.
26. The Commissioner notes that in its initial response, Surrey Police stated that when applying section 12(1) of FOIA in relation to an information request, it would normally contact the requester to determine whether it is possible to refine the scope of the request to bring it within the cost limits. However, due to the extremely high number of items that would be covered by the scope of the complainant's request, it could not identify any reasonable way to do so.
27. In addition, the Commissioner notes that notwithstanding the above assertion of Surrey Police, the complainant in their internal review request tried to refine the scope of their request, when it was stated:
- "- Try doing harassment relating to rental properties? or even just harassment*
- housing represents well over a half of everyone's expenditure, how would you not be able to report trends to this effect?"*
28. In its internal review outcome, Surrey Police responded by explaining that its incident management system did not record *"whether a property is owner-occupied or rented, nor is there a relationship field in our data warehouse for 'landlord' or 'tenant' that would otherwise filter search results to identify relevant cases."* It added that *"Although reducing to 'harassment only' may limit the number of potential cases from thousands to hundreds, it would still necessitate a manual review to identify any relevant cases within the 'free text'. A refusal under S12 of FOIA would therefore still apply."*
29. Following the above, the Commissioner's view is that Surrey Police is aware of its duties under section 16 and it considered ways to advise and assist the complainant. Unfortunately, on this occasion, it was unable to offer any suggestions. Therefore, she finds that Surrey Police did not breach section 16 of FOIA.

## Right of appeal

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30. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

31. 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.
32. 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 .....**

**Ben Tomes**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
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