

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 4 April 2012

**Public Authority:** Crown Prosecution Service  
**Address:** Rose Court  
2 Southwark Bridge  
London  
SE1 9HS

#### Decision (including any steps ordered)

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1. The complainant has requested information about cases of abuse in the previous five years, involving 'dysfunctional families', where allegations are subsequently found to be false. The Commissioner's decision is that the Crown Prosecution Service (CPS) was entitled to rely on section 12(2) of the Freedom of Information Act 2000 (the Act), as to determine whether or not the information was held would exceed the appropriate limit. However, the CPS should have specifically cited section 12(2) in its refusal notice. The Commissioner does not require the CPS to take any steps.

#### Request and response

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2. On 9 September 2011, the complainant wrote to the CPS and requested information in the following terms:  
  
*"I would like to know how many cases of abuse say in the last 5 years have involved dysfunctional [sic] families attempting to settle scores by allegations dating back months, years, if not decades and the allegations are subsequently found to be false."*
3. The CPS responded on 23 September 2011. It stated that it did not hold any data in central records that would allow it to identify such cases. The CPS said *"If the information is available on individual case files it would involve a manual exercise of recalling thousands of relevant cases back from the archives and reviewing each of them in order to ascertain if there is information relating to dysfunctional families."* The CPS

estimated that it would exceed the cost limit and cited section 12(1) of the Act.

4. Following an internal review the CPS wrote to the complainant on 17 November 2011. The CPS stated that "*the cost limit exemption provided by Section 12 of the Act is clearly engaged*" and upheld its decision. The CPS provided further explanation to the requester and clarified that in 2010-2011 there were just over 9000 defendants prosecuted for child abuse cases alone. The public authority reiterated that it would require a manual exercise of recalling many thousands of relevant case files over the five year period specified in the request and considerable time reviewing each one in order to ascertain if any of the individual case files contained the information relating to dysfunctional families that the requester sought.

### **Scope of the case**

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5. The complainant originally contacted the Commissioner on 26 September 2011. However, at that point the public authority had not conducted an internal review. The complainant forwarded the internal review response to the Commissioner on 27 November 2011. He complained about the refusal of his request and explained that he believed it would be in the public interest to have the details in the public domain.
6. In his correspondence with the public authority, the complainant had stated that he believed that "*your organisation inflates the cost estimates of such requests, purely and simply to discourage the general public in raising such matters.*"
7. The complainant was unable to provide a copy of his original request to the Commissioner. In order to determine the actual wording of the request, the Commissioner asked the public authority to provide a copy. The complainant then agreed that the request quoted in paragraph 2 is the actual request he made.
8. The Commissioner considered whether the public authority was entitled to refuse to comply with the request above of 9 September 2011 on the basis of section 12.

## Reasons for decision

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9. Section 12 of the FOIA provides that a public authority will not be obliged to comply with a request for information where the cost of compliance is estimated to exceed the appropriate limit.
10. This limit is set in the fees regulations at £600 for central government departments. This is calculated at the rate of £25 per hour and so equates to 24 hours' work (3½ working days).
11. In estimating whether complying with a request would exceed the appropriate limit, a public authority can only take into account the following activities:
  - determining whether it holds the information;
  - locating the information, or a document containing it;
  - retrieving the information, or a document containing it; and
  - extracting the information from a document containing it.
12. The public authority explained to the Commissioner that *"there is no way of extracting this information from our electronic case management system because this level of detail about a case is not recorded on it. The only way to establish whether this information is held would be to run a report on all cases of abuse prosecuted in the last 5 years, retrieve the paper case files and look through each file to establish whether or not it involved dysfunctional families attempting to settle scores."*
13. The public authority conducted a sample search on its electronic case management system, restricted to just one of the five years for which the information was requested, 2010-2011, and relating to prosecutions for child abuse cases. This search revealed that in 2010-2011 there were over 9000 defendants prosecuted for child abuse cases alone. The public authority estimated that *"it would take at least 15 minutes per case file to establish whether there is mention of dysfunctional families being involved. Based on this estimate, in order to fall within the cost limit there would have to be no more than 96 case files."*
14. Given the number of cases for child abuse alone, the CPS did not consider it was necessary to extend the search further to include other forms of abuse.

15. Section 12 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.
16. Based on the 2010-2011 figures for the sample search, the Commissioner agrees that it is reasonable to estimate that there would be tens of thousands of files for the five year period requested.
17. The public authority further explained to the Commissioner that *"this information [about 'dysfunctional families'] will not always be recorded on the case file even if it applies to the case as it may not be relevant to the prosecution."*
18. The public authority has also stated that it does not have a definition of 'dysfunctional family' to apply and therefore determination of whether the information was held would be highly likely to involve an interpretation of information, and not recorded information itself. Where a public authority would be required to make a complex judgement, the Commissioner is unlikely to find that the information is held.
19. The Commissioner accepts that the public authority would have to go through each individual manual file to determine whether or not the requested information was held. It would be necessary to read through each complete file for any mention of 'dysfunctional families attempting to settle scores' or related information. It is reasonable to assume that the information in the files would not necessarily be recorded in that form.
20. Taking the result of the public authority's sample search, 9000 files, and its estimate that it would take 15 minutes to read carefully through each file to determine whether the requested information was contained in it, it would take 2250 hours to determine whether the information was held for the sample alone.
21. The Commissioner accepts that the public authority has provided a reasonable estimate and in consideration of the large number of files involved, is satisfied that to determine whether the requested information is held would in itself exceed the appropriate limit of £600.
22. If the public authority estimates the cost of determining whether the information is held as being above the appropriate limit, it is not required to conduct searches but should consider providing advice and assistance.
23. The Commissioner is aware that, on the suggestion of the public authority, the requester subsequently refined his request and restricted it to one county. However, the public authority advised that the request was not sufficiently narrowed to enable it to identify whether the

information was held within the appropriate cost limit. The refined request was treated as a new request and the Commissioner did not therefore consider it as part of this investigation.

24. The Commissioner finds that the public authority was entitled to rely on section 12(2), as to determine whether or not the requested information is held would, in itself, clearly exceed the appropriate limit.
25. The Commissioner however finds the public authority in breach of section 17(5) for failing to cite section 12(2) in its refusal notice.

## Right of appeal

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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: 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)

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 .....**

**Alexander Ganotis**  
**Group Manager – Complaints Resolution**  
**Information Commissioner’s Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**