

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 August 2012

Public Authority: Chief Officer of Nottinghamshire Police
Address: Nottinghamshire Police HQ
Sherwood Lodge
Arnold
Nottingham
NG5 8PP

Decision (including any steps)

1. The complainant has requested information about revenue received or generated by the public authority for various types of services. It responded that to comply with the request would exceed the cost limit under section 12 of the FOIA. The Information Commissioner's decision is that the public authority was correct and he does not require it to take any steps.

Background

2. The request can be followed on the *"what do they know"* website via this link:

http://www.whatdotheyknow.com/request/revenue_from_all_sources_19#comment-26378.

Request and response

3. On 6 March 2012, the complainant wrote to the public authority and requested information in the following terms:

"Under the Freedom of Information Act, for the years 2006 to 2011 would you please fully disclose:

(a) How much revenue has been received by the police force for services rendered by way of private investigations, bailiff/eviction type services, or by any other method of paid services, work performed, or contractual [sic] agreements made to business, private individuals, or organisations of any kind?

(b) Please outline the type of work or service rendered, in each case and disclose the revenue received for each type of service.

(c) How much revenue has been generated by the force for endorsements of any kind?

(d) Please indicate the types of products/services that the force endorsed for remuneration/financial benefit/fee and the revenue received.

(e) Please indicate total revenues from all sources, and break them down into categories.

(f) How many manpower hours per year, in total, have been devoted to privately paid services/contractual [sic] work?"

4. The public authority responded on 7 March 2012. It advised that any data would be held on its financial system but to provide it would exceed the appropriate limit. It provided a breakdown of the anticipated costs.

5. The complainant asked for an internal review on 7 March 2012, stating:

"Please ask the accountant to check the Income Statement. I am sure it will only take him 10 minutes to give me the information".

6. On 13 March 2012 the public authority provided an internal review. It maintained its position.

Scope of the case

7. On 14 March 2012 the complainant contacted the Information Commissioner to complain about the way her request for information had been handled. She specifically commented that she had been denied access to the information requested.

Reasons for decision

Section 12 – cost of compliance

8. Section 12 of the FOIA states that a public authority is not obliged to comply with a request for information if it estimates that the cost of complying would exceed the appropriate cost limit, which in this case is £450 as laid out in section 3(2) of the Fees Regulations. This must be calculated at the rate of £25 per hour, providing an effective time limit of 18 hours.
9. Regulation 4(3) of the Fees Regulations states that an authority, when estimating whether complying with a request would exceed the appropriate limit, can only take into account the costs it reasonably expects to incur in:
 - determining whether it holds the information;
 - locating the information, or documents containing it;
 - retrieving the information, or documents containing it; and
 - extracting the information from any documents containing it.
10. Section 12(4) of the FOIA provides that in certain cases a public authority can aggregate the cost of complying with requests. Section 5 of the Fees Regulations sets out the circumstances in which it may be appropriate to aggregate requests. This states that two or more requests to one public authority can be aggregated for the purposes of calculating costs if they are:
 - by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign;
 - for the same or similar information to any extent; and
 - the subsequent request is received by the public authority within 60 working days of the previous request.
11. The Information Commissioner will first consider whether the public authority was entitled to apply section 12(1) to the six requests. What the Information Commissioner must consider is whether the public authority is entitled to combine the work required for these six requests, or whether each request should be considered individually.
12. The Information Commissioner would characterise the complainant's request as containing more than one request within a single item of correspondence. Having considered the wording of the six parts of the request, the Information Commissioner has concluded that they can be aggregated for the purpose of calculating the cost of compliance, in

accordance with section 12(4) of the FOIA and regulation 5 of the Fees Regulations. This is because they follow an overarching theme.

13. The task for the Information Commissioner in considering whether section 12(1) has been applied correctly is to reach a decision as to whether the cost estimate made by the public authority is reasonable. The analysis below is based upon the description provided by the public authority in support of its cost estimate.

Would compliance exceed the appropriate limit?

14. When refusing her request the public authority advised the complainant:

"For the data we do hold (which is held in the financial system) as we do not routinely record the information as a separate figure it would be necessary to check each individual entry to locate, retrieve and extract the paper records to determine if the required data exists.

Checks have revealed that one year's data on the system is approximately 280 entries – we estimate that it would take approximately 30 minutes per entry to determine whether any of them contain any information pertaining to the request. This equates to around 140 working hours for each year's worth of data which takes the request over the cost threshold of 18 working hours. Therefore Section 12 of the Act 'Excess Costs' is applied in this case.

... I am unable to suggest any way that you could refine the request to bring it within cost at this time".

15. The Information Commissioner raised various queries with the public authority to ascertain how its data was held. He was advised:

"The system used to store the financial data is Efinancials. However, this data stored on this system does not provide the information required for the request and this would entail a manual search of each invoice to determine whether the payment made was within the scope of the request".

16. The Information Commissioner also asked the public authority how it had ascertained that there were approximately 280 related entries for a year and how long this took to calculate. He was advised:

"A sample of the data for one year is attached (with a total of 294 entries). This was compared to data for a different year and, as each year has a similar number of entries, an average number was used. This exercise took approximately 15 minutes".

17. The Information Commissioner has considered the sample provided and notes that it does not contain the level of detail sought by the complainant. It would not be possible to respond to her requests without undertaking more detailed enquiries.

18. The public authority was also asked to clarify whether a sampling exercise had been undertaken in order to determine its estimate. It stated:

"A sampling exercise was undertaken at the time of the request but this was not recorded therefore a further sampling exercise has been undertaken – this involved locating and retrieving one invoice in relation to an entry on the spreadsheet to ascertain whether it was within the scope of the request. The results of this are attached".

19. The results referred to consisted of emails from a member of staff in the public authority's finance section:

"I have completed a sample search for one entry and it has taken me 15 minutes. The sample I have used is from 2011-12 financial year so the information and data stored is current. For this financial year there are 304 entries to check at 15 minutes each just for one year. Other factors which need to be considered in this sample are:

A copy of the sales ledger invoice is held in the financial system electronically so it was much quicker to get this information. Not all invoices for 2011-12 are held electronically and some are stored manually off site.

Not all the information requested in the FOI will be held in the supporting documentation to the invoices as historically this task was completed locally on divisions and departments and different working practices were used.

Taking into account the above two points this could increase the time for one entry to 30 minutes".

20. Due to the nature of the information requested by the complainant and the way in which it is recorded and held within the public authority, it is

the Information Commissioner's view that the public authority has provided adequate explanations – as referred to above – to demonstrate that it would significantly exceed the appropriate limit of 18 hours to locate, retrieve and extract the requested information. His conclusion is, therefore, that section 12(1) was appropriately applied and that the public authority was not obliged to comply with the request.

Section 16 – advice and assistance

21. Section 16(1) imposes an obligation for a public authority to provide advice and assistance to a person making a request, so far as it would be reasonable to do so. Section 16(2) states that a public authority is to be taken to have complied with its section 16 duty in any particular case if it has conformed with the provisions in the section 45 Code of Practice in relation to the provision of advice and assistance in that case.
22. Whenever the cost limit has been applied correctly, the Information Commissioner must consider whether it would be possible for a public authority to provide advice and assistance to enable the complainant to obtain information without attracting the costs limit in accordance with paragraph 14 of the Code.
23. The Information Commissioner notes that in its refusal notice the public authority made the complainant aware of its obligation under the FOIA to provide advice and assistance. However, it also advised her that it was unable to suggest how she might further refine it in order to receive any requested information. Having considered the amount of information caught by the request the Information Commissioner accepts that there is no easy way for the public authority to offer a potential narrowing of the request to keep it within the appropriate limit. He notes that the request covers six years' worth of data and, in his view, the public authority has demonstrated that to comply with the request for just six months' worth of data (based on the quicker search time of 15 minutes per record) would also significantly exceed the appropriate limit.
24. Based on the above, the Commissioner considers that the public authority complied with its obligations under section 16(1). It made reference to these duties, and offered a simple explanation about how its information was held by way of an explanation, albeit it was unfortunately unable to offer any practical solution to the complainant to assist her in this case.

Other matters

25. Although it does not form part of this decision notice, the Information Commissioner would like to commend the public authority for providing a prompt response to the information request and also in conducting its internal review.

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: 0300 1234504
Fax: 0116 249 4253
Email: informationtribunal@hmcts.gsi.gov.uk
Website: 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

Jon Manners
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