

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 March 2016

Public Authority: Commissioner of the Metropolitan Police Service

Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant requested information relating to child sexual exploitation. The Metropolitan Police Service (MPS) refused the request on cost grounds under section 12(1) of the FOIA.
2. The Commissioner's decision is that the MPS cited section 12(1) correctly and so it was not obliged to comply with this request.

Request and response

3. On 16 July 2015, the complainant wrote to the MPS and requested information in the following terms:

“(1) Since 1 January 2012, please give specific names of locations or premises in your force area where it is known to police that Child Sexual Exploitation (CSE) has taken place

(2) Since 1 January 2012, please give specific names of locations or premises in your force area where people who were the subject of missing person reports, who were known to be at risk of CSE, have been located

(3) Since 1 January 2012, please give specific names of locations or premises in your force area where children known to be at risk of CSE were trafficked

*(4) For each location and premises listed above please specify:
a. The nature of the evidence of CSE (ie presence of used condoms, alcohol, empty bottles of alcohol, evidence of drugs)*

b. Whether the evidence indicated the CSE encompassed grooming and sexual activity.

For clarification, when I write the 'specific names of locations or premises' I mean specific names of business premises/public buildings/parks and similar rather than simply a name of a town."

4. The MPS responded on 11 August 2015. It stated that the request was refused under the exemptions provided by sections 23(5) (information relating to, or supplied by, security bodies) and 40(2) (personal information) of the FOIA.
5. The complainant responded on 15 September 2015 and requested an internal review. The MPS responded with the outcome of the review on 26 November 2015. The conclusion of this was that the refusal under sections 23(5) and 40(2) was upheld, with section 30(1)(a) (information held for the purposes of an investigation) now also cited.

Scope of the case

6. The complainant contacted the Commissioner on 8 December 2015 to complain about the refusal of his information request. The complainant indicated that he did not agree with the grounds given by the MPS for the refusal of his request.
7. During the investigation of this case, the stance of the MPS changed. Instead of relying on the exemptions cited previously, it now cited section 12(1) and refused the request on cost grounds. The complainant was informed of this change in position by letter dated 29 January 2016. The analysis below covers whether the MPS was correct to cite section 12(1).

Reasons for decision

Section 12

8. Section 12(1) provides that a public authority is not obliged to comply with a request where it estimates that the cost of doing so would exceed the appropriate limit, which for the MPS is £450. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the "fees regulations") provide that the cost of a request must be calculated at the rate of £25 per hour, providing an effective time limit of 18 hours. The fees regulations also specify the tasks that can be taken into account when forming a cost estimate as follows:

- Determining whether the requested information is held.
 - Locating the information, or a document which may contain the information.
 - Retrieving the information, or a document which may contain the information.
 - Extracting the information from a document containing it.
9. A public authority is required to estimate the cost of a request, rather than form an exact calculation. The task for the Commissioner here is to reach a conclusion as to whether the cost estimate made by the MPS was reasonable; if it estimated reasonably that the cost of compliance with the request would exceed the limit of £450, section 12(1) applied and it was not obliged to comply with the request.
10. Turning to the reasoning of the MPS for its cost estimate, in correspondence with the Commissioner MPS described several locations where information within the scope of the request could be held. Its cost estimate focussed on one of these locations; CRIS (Crime Reporting Information System). It described this as *"an electronic management system for the recording and processing of crime"*.
11. The MPS stated that initial enquiries had shown there to be 4,090 reports on CRIS that could relate to child sexual exploitation (CSE). It provided an estimate of the time that it would take to comply with the request in relation to a subset of that information; "Non-Crime" reports, which it described as *"reports where concerns are raised about a child or children who may be subject to sexual exploitation even where no actual allegation of crime is made and no offence alleged"*. It stated that there were 2,627 such reports on CRIS.
12. The estimate focussed on the time that it would take to search these 2,627 reports for information within the scope of requests (3) and (4). It stated that the length of these records vary. Whilst some will be very brief, others may run to *"tens of pages"*. The MPS stated that it would be necessary to check each record for information on whether a victim of CSE was trafficked and whether the CSE had included grooming and / or sexual activity. It gave an estimate of one minute per record for this, which it described as *"very conservative"*, and supplied to the ICO a screenshot from CRIS to evidence the appearance of this system.
13. The Commissioner accepts that CRIS is a likely location for information within the scope of the requests and that searching that system for information of relevance to the request would be within the tasks specified in the fees regulations. He also has no basis on which to

dispute the figure of 2,627 records that it would be necessary to search given by the MPS.

14. The remaining issue is whether he accepts the estimate of an average of one minute per record to search for relevant information. On this point the Commissioner takes into account the representations from MPS of the varying lengths of the records and the evidence that has been provided of the appearance of the database. On the basis of this evidence he accepts that one minute per record is a reasonable estimate, giving a total estimate for the complainant's requests of approximately 44 hours. The Commissioner also notes that, in any event, even were this estimate per record to be halved, it would still produce a result in excess of the limit. It is also the case that this estimate is based only on the time that it would be necessary to spend searching one possible location for information within the scope of the request and does not take into account the remainder of the potentially relevant CRIS records, or the other systems described by MPS that could potentially hold information relevant to the requests.
15. For these reasons, the conclusion of the Commissioner is that the cost estimate made by the MPS was reasonable. Section 12(1) therefore applied and the MPS was not obliged to disclose the requested information.

Section 16

16. Section 16(1) of the FOIA provides that all public authorities are under a duty to provide advice and assistance to any person who has made or who intends to make an information request to it. The Commissioner's published guidance on section 12¹ sets out the following minimum advice and assistance that a public authority should provide to a requester when refusing a request on cost grounds:
 - either indicate if it is not able to provide any information at all within the appropriate limit; or
 - provide an indication of what information could be provided within the appropriate limit; and
 - provide advice and assistance to enable the requester to make a refined request.

¹ https://ico.org.uk/media/1199/costs_of_compliance_exceeds_appropriate_limit.pdf

17. In this case, the Commissioner notes that advice on refining the request was given in the letter informing the complainant that section 12(1) was relied upon and that an offer to discuss this further was made elsewhere. In view of this, the Commissioner's finding is that the MPS complied with its duty to provide advice and assistance in this case.

Right of appeal

18. 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@hmcts.gsi.gov.uk

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

19. 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.
20. 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
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