

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 June 2015

Public Authority: Durham Constabulary
Address: Peterlee Police Office
St Aidans Way
Peterlee
Co Durham
SR8 1QR

Decision (including any steps ordered)

1. The complainant has requested information about income Durham Police received.
2. The Commissioner's decision is that Durham Police has applied section 12 appropriately.
3. The Commissioner does not require Durham Police to take any further steps as a result of this decision.

Request and response

4. On 29 November 2014 the complainant wrote to Durham Police (DP) and requested information in the following terms:

"In accordance with the Freedom of Information Act, will you please provide me with details of income derived from (a) all private sources, and (b) assisting bailiffs and/or attending at evictions of premises events, both (a) and (b) being required for both the current and the previous fiscal period."

5. DP responded on 11 December 2014 and asked the complainant whether she wanted any particular areas of income as all private sources could include things such as charges levied on solicitors/

insurance firms for disclosure or payments received from police contractors. The complainant confirmed that she was particularly interested in revenue obtained for services rendered by the police.

6. DP provided its response on 22 December 2014. It explained that it held the requested information but did not have to comply with the request as to do would exceed the appropriate cost limit, citing section 12 of FOIA. DP also explained that because of the volume of recorded information it held, it could not advise the complainant on how to refine her request.
7. Following an internal review DP wrote to the complainant on 22 January 2015. It stated that it was upholding its decision to apply section 12.

Scope of the case

8. The complainant contacted the Commissioner on 26 January 2015 to complain about the way her request for information had been handled. She explained that DP had failed to provide her with information of revenue received and had not attempted to provide her with details received from bailiffs.
9. The complainant explained that DP was required by law to produce a statement of accounts. She also explained that an examination of revenue should be a simple matter. Furthermore, the complainant pointed out that a good source of information would be the "accounts receivable" files.
10. The Commissioner will consider whether DP has applied section 12 appropriately.

Reasons for decision

Section 12 – cost of compliance

11. Section 12 of FOIA states that:

"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 appropriate limit".

12. The limit is set in the fees regulations (the regulations) at £600 for central government departments and £450 for all other public authorities. The regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour.

Would complying with the request exceed the appropriate limit?

13. When estimating whether complying with a request would exceed the appropriate limit, regulation 4(3) states that an authority can only take into account the costs it reasonably expects to incur in:
 - determining whether it holds the information
 - locating the information, or document containing it;
 - retrieving the information, or a document containing it; and
 - extracting the information from a document containing it.
14. In response to the request, DP explained to the complainant that to retrieve accurate data, a member of staff would have to check each record kept in the appropriate ledger. This would mean a manual viewing and extraction of the information; DP confirmed that there were 4,057 entries recorded during the relevant fiscal periods and that would take approximately 2 minutes per individual record held. DP also explained that it could not advise the complainant how she could narrow her request, owing to the large volume of recorded information.
15. In her request for an internal review, the complainant explained that she considered that the information should be readily available from prepared Statements of Accounts, related invoices and the comptroller or auditor. She also stated "*We are not living in the age of Charles Dickens, ledgers, and quill pens*". The complainant also explained that she did not consider that it was too labour intensive to find the information.
16. When dealing with a complaint to him under the FOIA involving section 12, it is not the Commissioner's role to make a ruling on how a public authority uses its resources, or how it holds its information, or the strength of its business reasons for holding information in the way it does, as opposed to any other way. The Commissioner's role is to decide whether or not the requested information can, or cannot, be provided to a requester within the cost limit.
17. In its internal review, DP explained that it had carried out additional research with its Head of Finance Section, who had explained that when an invoice was raised, DP recorded on its finance system who it was to, but that if it received miscellaneous income, it did not record who it was from. It went on to explain that in these cases, it would have to examine each transaction in order to determine whether it originated from a private source.

18. Furthermore, DP confirmed that it does record specific amounts and cost centres but its financial system does not provide any electronic search criteria that would readily display the source of the income. It explained that this could only be retrieved by a manual viewing of each individual transaction. DP also confirmed that 4,057 transaction entries would have to be looked at and provided a conservative estimate of the time this would take: 4057 records @ a minimum of 2 minutes = 135.2 hours. DP also explained that it is subject to annual internal audits by Durham County Council, and annual external audits and transaction audits, on a regular basis.
19. The Commissioner contacted DP and asked it to explain what a ledger was. He also asked whether a sampling exercise had been carried out.
20. DP explained that a ledger was a Financial Management Information System called Agresso, which enables interrogation of financial entries. In addition, it displays results in a spreadsheet format.
21. With regard to a sampling exercise, DP explained that it had not carried this out initially, due to the volume of records involved. It confirmed that it had now done so. The Commissioner notes that the sampling exercise showed a minimum of 2 minutes to retrieve and extract the relevant information. DP also confirmed that it would take more than 18 hours to do this.
22. With regard to the complainant's comments to the Commissioner regarding bailiffs, DP explained that if it received a call for such assistance it was likely that the police would attend as part of its normal duties, in order to prevent a breach of the peace; therefore no financial charges would be made under these circumstances.
23. The Commissioner has considered the arguments and evidence put forward by both parties. He is satisfied that DP has provided adequate explanations to demonstrate that compliance with the request would exceed the appropriate cost limit.
24. The Commissioner therefore considers that section 12(1) does apply and DP is not required to comply with the request.

Section 16 – advice and assistance

25. Where a public authority claims that section 12 is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit.

26. Paragraph 14 of the section 45 Code of Practice states that where a public authority is not obliged to comply with a request because it would exceed the appropriate cost limit to do so, then it:

"... should consider providing an indication of what, if any, information could be provided within the cost ceiling. The authority should also consider advising the applicant that by reforming or refocussing their request, information may be able to be supplied for a lower, or no, fee."

27. In cases where it is reasonable to provide advice and assistance in the particular circumstances of the case, the minimum a public authority should do in order to satisfy section 16 is:

- 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 refunded request.

28. The Commissioner notes that DP explained that it could not advise the complainant how to redefine her request, owing to the large volume of recorded information. However, with regard to bailiffs, DP had explained that it would not charge a fee under such circumstances, as the police would be in attendance to stop a breach of the peace.

29. Having reviewed the evidence before him, the Commissioner considers that DP has taken reasonable steps to provide advice and assistance in that it explained that why it would not be able to provide any information at all, in accordance with section 16(1) of FOIA.

Right of appeal

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: 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

Jon Manners
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Wycliffe House
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Wilmslow
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SK9 5AF