

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

### **Decision notice**

**Date:** 15 May 2023

**Public Authority:** National Police Chiefs' Council  
**Address:** 1st Floor  
10 Victoria Street  
London  
SW1H 0NN

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

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1. The complainant has requested data about Counter Terrorism ("CT") arrests from the National Police Chiefs' Council (the "NPCC"). The NPCC advised that to comply with the request would exceed the cost limit at section 12 (Cost of compliance would exceed appropriate limit) of FOIA.
2. The Commissioner's decision is that section 12 is not engaged. The NPCC is required to disclose data that had previously been agreed in respect of an earlier request that was made to the Metropolitan Police Service.
3. The NPCC must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Background

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4. The Commissioner has previously issued a decision relating to this request<sup>1</sup>.
5. In that case, the request was sent to the Metropolitan Police Service ('MPS'), and they undertook various searches and collated information relevant to the request. The Commissioner liaised with the MPS and a disclosure was agreed, which the complainant had advised was acceptable.
6. It subsequently transpired that, although the requested data was held on a computer housed in one of MPS' offices, the data itself was actually 'owned' by the NPCC.
7. The Commissioner accepted that this was the case in the decision referred to above.
8. The MPS transferred the request to the NPCC and asked it to respond. This case is based on the NPCC's response to the same request.

## Request and response

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9. On 19 March 2022, the complainant wrote to the MPS and requested information in the following terms:

"I am interested in more contextual data surrounding this statistic:  
- "One in eight counter-terrorism arrests now involves children, police said"

From this article:  
<https://www.dailymail.co.uk/news/article-10625725/Middle-class-teenage-gamers-seduced-far-Right-terrorism-police-expert-warns.html>

I would like to request a list of all counter terrorism arrests from 1 January 2017.

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<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2023/4023983/ic-176372-g7b3.pdf>

I would like the list to be broken down by year and give the age of each person at the time of arrest. For each arrest I would also like to know the type of terrorism the person is being arrested in connection to (eg. far right, environmental, animal rights, islamic terrorism).

I would like the data to be provided to me in Excel format”.

10. On 11 April 2022 the complainant clarified his request as follows:

“Do you know what data set the police were using when they said that ‘One in eight counter-terrorism arrests now involves children’...?

Was it all arrests made by MPS Counter Terrorism officers or only those for Terrorism Act 2000 (TACT) offences?

I think for my purposes it might be good if you gave me a list of all arrests made by MPS Counter Terrorism officers... but for each list entry state whether the arrest was for a Terrorism Act 2000 (TACT) offence or not”.

11. The progress of the request can be followed in the decision notice referred to at paragraph (4) above.

12. On 1 February 2023, the MPS advised the complainant that the request was being transferred to the NPCC.

13. On 28 February 2023, the NPCC refused the request on the grounds of cost.

14. The Commissioner had previously agreed with the complainant that he would deal with any complaint without the need for an internal review.

15. It is noted that, having received the refusal notice, the complainant advised the NPCC:

“This is clearly a misuse of the cost limit exemption.

I know this because the Met already compiled this information without going over the time limit and were prepared to send it to me but then issues over the ‘ownership’ of the data meant that I had to file a separate request with the NPCC”.

## Scope of the case

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16. The complainant contacted the Commissioner on 19 April 2023 to complain about the way his request for information had been handled.
17. The complainant asked the Commissioner to consider the application of the cost limit to the request. The Commissioner will consider this below.

## Reasons for decision

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### Section 12 – cost of compliance

18. Section 12(1) states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.
19. When considering whether section 12(1) applies, the authority can only take into account certain costs, as set out in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ('the Regulations'). These are:
  - (a) determining whether it holds the information,
  - (b) locating the information, or a document which may contain the information,
  - (c) retrieving the information, or a document which may contain the information, and
  - (d) extracting the information from a document containing it."
20. The Regulations state that the appropriate cost limit is £450 for the NPCC, which is equivalent to 18 hours' work.
21. Section 12 of 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 the NPCC 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 that it was not obliged to comply with the request.
22. The NPCC advised the complainant:

"Unfortunately, your request exceeds the fees limit as outlined by the Secretary of State in that to ascertain exactly what information may be held by the NPCC, would take longer than 18 hours.

The NPCC may hold information captured by your request, however, complying with your request will exceed the cost limit set within the legislation, found at Annex A.

This response serves as a refusal notice under Section 17 of the Freedom of Information Act 2000 (the Act).

It is primarily the second part of your request which exceeds the cost limit. In terms of providing the type of terrorism that a person is being arrested for, CTPHQ does not record the 'type of terrorism' by way of a drop down filter or field on the relevant database.

In order to determine the type of terrorism connected to the arrest, each relevant record held on the database would need to be reviewed. By way of a very conservative estimation of each of the 837 records captured by this request, taking 90 seconds to review to determine whether the type of terrorism is recorded, would take in excess of 20 hours and would exceed the cost threshold.

For noting, of the 10 records reviewed to achieve this estimate, only 5 held recorded information in relation to the terrorism type".

23. In this regard, it is noted that the complainant had previously revised his request, in cooperation with the MPS, to ensure that it fell within the cost limit. At the point the request was transferred to the NPCC, the necessary work had already been done and the data had been prepared in a spreadsheet ready for disclosure.
24. The Commissioner therefore finds that the estimate is not realistic and reasonable. The work required has already been undertaken and it is simply the case that the NPCC needs to disclose the data that its officer has already compiled. He therefore does not find the cost limit at section 12 of FOIA to be engaged.
25. The NPCC must therefore take the action specified in paragraph (2), above.

## 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: 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)

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 .....**

**Carolyn Howes**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**