



**Information Management**

**WEST YORKSHIRE  
POLICE**

**Freedom Of Information**

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Our ref: 05788/18

Date: 11/03/2019

Dear Mr Ferris

Thank you for your request for information received by West Yorkshire Police on 03/08/18.

You requested the following information:

**Request 1**

1. Is your force currently collecting digital information from devices belonging to complainants of sexual offences? For reference, "collecting digital information" in this context should be taken to mean and include any form of examination, access, extraction, copying or download of such digital information from digital devices, whether by self-service kiosks (SSKs), other device extraction software, or by external digital forensic examiners.

2. Does your force currently have any digital devices awaiting examination? If yes, please provide details of:

- i. The number of devices currently awaiting examination.
- ii. the average wait time for a digital device to be examined.

3. Does your force seek consent from complainants of sexual offences for the collection and/or disclosure of their personal information from their digital device or a third party organisation such as medical records, counselling records, local authority records or educational records?

4. Is your force currently trialling any form of artificial intelligence, machine learning, or other automated system to analyse the digital information collected from complainants' digital devices or have plans to trial or use this technology in the next 2 years? If yes, please provide details of:

- i. the system or technology that your force is planning on using or trialling.
- ii. for what purpose the system or technology will be used.

Unfortunately, West Yorkshire Police are unable to provide you with the information requested.

In relation to question 2i of your request, some devices are dealt with at the Digital Forensic Unit (DFU), and others at Districts and Departments. All are authorised for examination by the DFU, but once that authority is sent to a district or department, the DFU plays no further part in the process. The districts and departments then take responsibility for downloading those devices. There is method of extracting data on how many are in the queue. It may be that some devices are subsequently not examined even

though authority has been given therefore the number of devices authorised would not give an accurate answer to this question. To track down every prospective download for every case and check whether it has been downloaded or not and if there is still a need would take a considerable period of time, requiring research of every case. In 2018 we received requests to examine almost 9,000 phones. An estimate of 10 minutes per record to ascertain the download status of each phone would equate to 1,500 hours work.

It is estimated that the cost of providing / locating the information you seek within your request would exceed the time threshold. Where a reasonable estimate has been made that the appropriate limit would be exceeded, there is no requirement for a public authority to undertake the work up to the limit.

Please see Appendix A for the full legislative explanation as to why West Yorkshire Police are unable to provide the information.

West Yorkshire Police will assist you in negotiating the possibility of the provision of some of the information requested. Please see the Advice and Assistance under Section 16 of Appendix A.

### **COMPLAINT RIGHTS**

If you are not satisfied with how this request has been handled or with the information provided, please read the advice notice attached to this letter. If you do wish to take up your right of complaint, please remember to quote the reference number above in any future correspondence.

Yours sincerely

Gemma Burton  
Disclosure Officer

## Appendix A

The Freedom of Information Act 2000 creates a statutory right of access to information held by public authorities. A public authority in receipt of a request must, if permitted, state under Section 1(a) of the Act, whether it holds the requested information and, if held, then communicate that information to the applicant under Section 1(b) of the Act.

The right of access to information is not without exception and is subject to a number of exemptions which are designed to enable public authorities to withhold information that is unsuitable for release. Importantly the Act is designed to place information into the public domain, that is, once access to information is granted to one person under the Act, it is then considered public information and must be communicated to any individual should a request be received.

### DECISION

This letter serves as a Refusal Notice under Section 17 of the Freedom of Information Act 2000.

Section 17 of the Act provides:

(1) A public authority which, in relation to any request for information, is to any extent relying on a claim that information is exempt information must, within the time for complying with Section 1(1), give the applicant a notice which:-

- (a) states the fact,
- (b) specifies the exemption in question, and
- (c) states (if that would not otherwise be apparent) why the exemption applies.

### REASONS FOR DECISION

The reason that we are unable to provide you with this information is covered by the following exemption(s):

Section 12 - Where the cost of compliance exceeds the appropriate limit

West Yorkshire Police can confirm that we hold the information you seek, however it is not held in an easily retrievable format.

In relation to question 2i of your request, some devices are dealt with at the Digital Forensic Unit (DFU), and others at Districts and Departments. All are authorised for examination by the DFU, but once that authority is sent to a district or department, the DFU plays no further part in the process. The districts and departments then take responsibility for downloading those devices. There is method of extracting data on how many are in the queue. It may be that some devices are subsequently not examined even though authority has been given therefore the number of devices authorised would not give an accurate answer to this question. To track down every prospective download for every case and check whether it has been downloaded or not and if there is still a need would take a considerable period of time, requiring research of every case. In 2018 we received requests to examine almost 9,000 phones. An estimate of 10 minutes per record to ascertain the download status of each phone would equate to 1,500 hours work.

It has been estimated that the cost of providing you with this information is above the amount to which we are legally required to respond i.e. the cost of locating and retrieving the information exceeds the 'appropriate level' as stated in the Freedom of Information (Fees and Appropriate Limit) Regulations 2004, which currently stands at £450 worth of work.

Our NPCC guidance states that we do not issue fees notices and therefore in accordance with the Freedom of Information Act 2000, this letter acts as a Refusal Notice.

West Yorkshire Police have utilised Section 12, which states "A public authority does not have to comply with a request for information if the cost of compliance exceeds the appropriate limit", this is further affirmed by the Decision Notice issued by the Information Commissioner's Office (Reference: FS50143930), and Guidance issued by the Information Commissioner's Office on Using the Fees Regulations.

## **ADVICE AND ASSISTANCE**

Under Section 16 of the Freedom of Information Act 2000, my duty to provide advice and assistance to persons who have made request for information, please be advised that West Yorkshire Police can offer the following advice:

In relation to question 2ii of your request, averages are not held.

In relation to question 3 of your request, this is assessed on a case by case basis and then only requested if it is deemed to be a reasonable line of enquiry which may reveal evidential content or material which may undermine the prosecution case and/or assist the defence case.

Please note that police forces do not use generic systems or identical procedures for capturing the data. For these reasons this response to your questions should not be used for comparison purposes with responses you may receive from other police forces.

## **COMPLAINT RIGHTS**

### **1. Are you unhappy with how your request has been handled or you think the decision is incorrect?**

You have the right to request that West Yorkshire Police review their decision. Prior to lodging a formal complaint, we encourage that you discuss the decision with the case officer that has dealt with your request.

### **2. Ask to have the decision looked at again**

The quickest and easiest way to have the decision looked at again, is to telephone the case officer that is nominated at the end of your decision letter. That person will be able to discuss the decision, explain any issues and assist with any problems.

### **3. Complaint**

If you are dissatisfied with the handling procedures or the decision of West Yorkshire Police, made under the Freedom of Information Act 2000 regarding access to information, you can lodge a written complaint to have the decision internally reviewed.

A West Yorkshire Police internal review of your decision, will be carried out by a senior member of staff who is fully trained in interpreting Freedom of Information legislation. The review will be independent conducted, regardless to the original decision made.

Complaints will only be treated as valid, if they are received by West Yorkshire Police within a 40 day timeframe from the date of the decision letter. They must include the original FOI Reference Number and can only be submitted in writing, by using the following contact details:

[foi@westyorkshire.pnn.police.uk](mailto:foi@westyorkshire.pnn.police.uk)

or

West Yorkshire Police  
FOI Internal Reviews  
PO Box 9  
Laburnum Road  
Wakefield  
WF1 3QP

In all possible circumstances, West Yorkshire Police will aim to complete and respond to your internal review within 20 working days. However this date may be extended in exceptional circumstances, by another 20 working days.

### **4. The Information Commissioner**

If you are still dissatisfied with the internal review decision, made by West Yorkshire Police. You can then make an application to the Information Commissioner, for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at [www.ico.gov.uk](http://www.ico.gov.uk)

Alternatively, you can phone their helpline or write to them at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

FOI Help Line: 0303 1231113