



Our Ref: 003170/20

Your Ref:

Address Correspondence to: Information Management

Date 17 November 2020

Freedom of Information Act 2000

I write further to your request for information received 23/09/2020.

I note you seek access to the following information:

How many registered sex offenders reside in your Policing area and what, if any, risk category in which they are placed, i.e. low, medium, high. Of these, how many are subject to either a Sexual Harm Prevention Order or a Sexual Offence Prevention Order, breaking that figure down by Order type.

How many staff do you have monitoring these subjects throughout your policing area?

How often do those staff members visit the offenders to conduct a review of their IT equipment to look for breaches of their orders?

How long, in hours, does each visit take from leaving the police station to returning and do they travel alone or in pairs?

Details of any computer monitoring software used by your Police force to monitor the internet use of sex offenders, specifically, those convicted of a sexual offence and whom have a Sexual Harm Prevention Order or a Sexual Offence Prevention Order.

Technical details (or a copy) of any information as to how that software works/performs its function(s).

Details (or the policy/framework) on the implementation and/or roll-out of such software.

Details (or the policy) on how this software accommodates the legal exemption from monitoring of legally privileged communication or communication which is medically or legally related, and adheres to the ECHR Article 8 rights of the person subject to such monitoring

Details (including a copy) of any legal guidance or advice supplied to yourselves - if any exists - in relation to the legality of the use of such software in light of the aforementioned Article 8 rights and the legal right of the person being monitored to both legal privilege and medical confidentiality;

Details (or a copy) of the total costs associated with this software, paid either by the offender or your Police force, from implementation to date.

Details (or a copy) of when this service began and is due to end.

Details (or a copy) of any hard or soft costs associated with staff travelling to/from a visit to an offender.

Details of how many offenders this software service currently applies to and how many new users are projected to be using the software within the next 12-18 months.

Following receipt of your request, searches were conducted within Leicestershire Police to locate information relevant to your request.

Your request for information has now been considered and the information asked for is as follows: -

1. How many registered sex offenders reside in your Policing area and what, if any, risk category in which they are placed, i.e. low, medium, high.
2. Of these, how many are subject to either a Sexual Harm Prevention Order or a Sexual Offence Prevention Order, breaking that figure down by Order type.

Questions 1 & 2 – The total number of RSO's by risk level and the number of SHPO's are routinely published via MAPPA annual reports per area (see below). Therefore s21 can be cited and the applicant directed to the link for these questions. These statistics are published annually so for data beyond the latest publication date, s22 can be cited.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843372/Humberside_MAPPA_Annual_Report_2018-2019.pdf

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843402/North_Yorkshire_MAPPA_Annual_Report_2018-19.pdf

3. How many staff do you have monitoring these subjects throughout your policing area?

30 members of staff this includes supervision as well.

4. How often do those staff members visit the offenders to conduct a review of their IT equipment to look for breaches of their orders?

This is dependent on the individual management plan for the person on notification requirements

5. How long, in hours, does each visit take from leaving the police station to returning and do they travel alone or in pairs?

This is dependent on the management plan that is in place for an individual as well as whatever new information is identified or need to be investigated at the time.

6. Details of any computer monitoring software used by your Police force to monitor the internet use of sex offenders, specifically, those convicted of a sexual offence and whom have a Sexual Harm Prevention Order or a Sexual Offence Prevention Order.

This is a police tactical decision in regard to nature of the systems we use and disclosure would alert and undermine investigation.

SECTION 31

7. Technical details (or a copy) of any information as to how that software works/performs its function(s).

SECTION 31

8. Details (or the policy/framework) on the implementation and/or roll-out of such software.

SECTION 31

9. Details (or the policy) on how this software accommodates the legal exemption from monitoring of legally privileged communication or communication which is medically or legally related, and adheres to the ECHR Article 8 rights of the person subject to such monitoring

SECTION 31

For Questions 6,7,8,& 9

I can confirm, pursuant to s1(1)(a) of FOIA that this Force does hold the information you have requested.

Section 17 of the Freedom of Information Act 2000 requires Leicestershire Constabulary, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which: (a) states that fact, (b) specifies the exemption in question and (c) states (if that would not otherwise be apparent) why the exemption applies.

The exemption(s) applicable relate to your request are as follows:

- Section 31 – Law Enforcement

As you have requested the information under the Freedom of Information Act 2000 consideration has to be given to the fact that the legislation is applicant blind. As a result, any disclosure has to be treated as if it was being sent to the public at large as opposed to a specific individual when considering the harm in disclosure.

I am satisfied that the above exemption is engaged on this occasion and that none of the information you have requested is suitable for release under the Freedom of Information Act 2000.

I will now turn to the application of this exemption to your request in order to provide the reasoning behind my decision.

Section 31 is a prejudice based, qualified exemption and there is a requirement to articulate the harm that would be caused as well as carrying out a public interest test.

Public Interest Test

The public interest is not what interests the public, but what will be of greater good if released to the community as a whole. It is not in the public interest to disclose information that may compromise Leicestershire Police's ability to fulfil its core functions. Detailed information pertaining to how the software functions and the

procedures undertaken could provide tactics used, resources and intelligence used and therefore if it became public knowledge it would render them ineffective. Disclosure of such detail about the software used would place information into the public domain that could be used by offenders to circumvent the system and evade detection. This in turn would undermine the police's ability to prevent and detect crime and apprehend offenders. There is also the potential that providing technical specifications to the public at large would leave programs vulnerable to cyberattack.

Section 31 – Evidence of Harm

Under the Act, we cannot, and do not request the motives of any application for information. We have no doubt that the vast majority of requests made under the Act are legitimate.

However, in disclosing information to one applicant, we are expressing a willingness to provide it to anyone in the world. This means that a disclosure to a genuinely interested person automatically opens it up for a similar disclosure, including those who would use the information to gain an advantage over the police.

In considering whether or not this information should be disclosed, consideration has been given to the potential harm that could be caused by disclosure.

Effective policing requires the active participation of a wide number of agencies in order for it to be successful. As a result, information is discussed and provided with the confidence that it will be treated confidentially. If a disclosure was made under the Act that broke this confidence, it would mean that information is not discussed and would severely impact on the process of law enforcement.

Furthermore, information will contain a wealth of sensitive tactical information of how the system works as well as other information that would demonstrate how we investigate high profile crimes and offenders. To release this information into the public domain would therefore clearly impact on our law enforcement capabilities with regards to future cases.

Section 31 – Considerations favouring disclosure

There is a public interest in disclosure of the requested information as it would allow the public to discuss the conduct of the system and how it assists and would therefore raise the Force's accountability. It would also aid transparency and allow any failings to be discussed in the public domain.

Disclosure of the costs (provided) shows how public funds are spent and demonstrates how the money is used for the software system to assist in Law Enforcement.

Section 31 – Considerations favouring non - disclosure

I am of the opinion that it is not in the public interest to disclose sensitive information that relates to software and the functionality of the said software on this occasion. The information requested contains a wealth of information that if disclosed, would reveal police tactics along with other information which is vital to Law Enforcement.

If this was released into the public domain, it would allow those likeminded to commit crime to be aware as to how this type of investigation is conducted. It would

therefore give them an added advantage should they wish to impede a future investigation and would significantly weaken our law enforcement capabilities.

10. Details (including a copy) of any legal guidance or advice supplied to yourselves - if any exists - in relation to the legality of the use of such software in light of the aforementioned Article 8 rights and the legal right of the person being monitored to both legal privilege and medical confidentiality;

The software implementation as part of a SHPO application has gone through a legal process where Human rights has been considered. Any comment on individual cases would be possible to identify those Persons and put that individual at risk. SECTION 40

11. Details (or a copy) of the total costs associated with this software, paid either by the offender or your Police force, from implementation to date.

Smoothwall 3 year deal for £9000 which was funded through MOSOVO budget for 50 offenders.

12. Details (or a copy) of when this service began and is due to end.

All such products are considered and under review as to their effectiveness against any cost implications and changes in technologies.

13. Details (or a copy) of any hard or soft costs associated with staff travelling to/from a visit to an offender.

I can confirm, pursuant to s1(1)(a) of FOIA that this Force does hold the information you have requested.

Section 17 of the Freedom of Information Act 2000 requires Leicestershire Police, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which: (a) states that fact, (b) specifies the exemption in question and (c) states (if that would not otherwise be apparent) why the exemption applies.

The exemption(s) applicable to the information are as follows.

Section 12 – Cost of compliance exceeds appropriate limit.

To research, collate and provide this information would be unachievable within the time constraints of the legislation for this type of request.

In order to retrieve the information you have requested would therefore be in excess of the 18 hours specified by the Home Office as the time period for which a police force should allocate to a request under the Freedom of Information Act 2000.

In the Freedom of Information (Fees and Appropriate Limit) Regulations 2004, the current regulatory limit which has been set by the Secretary of State for public authorities, which includes the police service, is £450 for the marginal costs which are the costs of finding, sorting, editing or redacting information and disbursements

(printing, photocopying etc). The Association of Chief Police Officers have agreed a national standard of an hourly rate of £25 is to be charged for the time taken. In essence therefore, the costs equate to 18 hours work per request. It will be apparent therefore that within the time frame of 18 hours it will not be possible to extract the information to answer any of your questions.

In accordance with the Freedom of Information Act 2000, this letter acts as a Refusal Notice under s12(1) as the cost of providing you with the 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.

14. Details of how many offenders this software service currently applies to and how many new users are projected to be using the software within the next 12-18 months.

This is speculative and would depend on the individual cases and as such be inaccurate. The section 31 exemption applies to this question. If placed in the public domain, offenders could use this information to build a picture of where they are more or less likely to evade detection, detrimentally affecting the police's ability to apprehend such offenders. Any information which would undermine policing will not be disclosed under FOI.

Conclusion

I believe that on balance it is **not** in the public interest to release all the information which you have requested on this occasion for the reasons stated above. I appreciate that this is not the decision you had hoped for but I must consider the wider position under the Freedom of Information Act 2000 which I feel necessitates the need to refuse some of your request under this legislation.

Leicestershire Police provides you the right to ask for a re-examination of your request under its review procedure. Letters should be addressed to Information Manager, Corporate Services Department at the above address. If you decide to request such a review and having followed the Force's full process you are still dissatisfied, then you have the right to direct your comments to the Information Commissioner who will give it consideration.

Yours sincerely

Freedom of Information Officer

Leicestershire Police

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