



**Derbyshire Constabulary**

Ms Jennifer Krueckeberg

Telephone: 101  
Direct Line: 0300 122 8752  
Ask For: Freedom of Information  
Our Ref: 000739/18  
Your Ref: Custody Image Deletion  
Date: 3 April 2018

Dear Ms Krueckeberg

### **FREEDOM OF INFORMATION REQUEST - REFERENCE NO: 000739/18**

I write in connection with your request for information which was received by Derbyshire Constabulary on 05/03/2018. I note you seek access to the following information:

- 1. What practical procedure/s does your force have in place to ensure the review and or deletion of custody images after 6 years?*
- 2. If there is a procedure in place, how many images have been deleted as the result of a periodic review (rather than following an individual's application for deletion)?*
- 3. How many images on your custody image database are of unconvicted persons?*
- 4. Since February 2017, how much has your force spent on the deletion of custody images of unconvicted people?*

### **Result of Searches**

Following receipt of your request, searches were conducted within Derbyshire Constabulary to locate any relevant information. The searches located some information relevant to your request.

### **Decision**

On this occasion I am unable to provide you with the information you requested under the Freedom of Information Act 2000 as I have applied Section 12 of the Act - 'Excess Fees'; the rationale for which is shown below.

This letter therefore represents our formal refusal to supply the information you requested.

However, I would ask you to view the Section, Information provision outside the Freedom of Information Act 2000 also below.

### **Reason(s)**

Section 12(1) of the Freedom of Information Act 2000 provides that Section 1(1) (General Right of Access to Information) 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.”

The Constabulary utilises a computerised system for the management of arrested persons and associated matters. Whilst the system has several functions, some of which are active and some still being developed, it cannot via a simple search determine if, and if so, the number of unconvicted custody images held. Neither can it state how many images have been deleted as the result of a periodic review. To obtain this data would require staff to physically open every record held and search for the required data. Given the volumes involved the staff time required to complete this would be well in excess of the nationally agreed threshold.

The costs limit is set by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. For non-central government public authorities such as the Derbyshire Constabulary the appropriate limit is £450 (which can be calculated as 18 hours of work where an hour is charged at a standard national rate of £25). This means that, in effect, there is a time limit of 18 hours.

The public authority’s estimate of the cost of compliance should be “*sensible, realistic and supported by cogent evidence*” - Information Tribunal: *Randall v Information Commissioner and Medicines and Healthcare Products Regulatory Agency* (EA/2006/0004)

Regulation 4(3) provides that the following factors can be taken into account when formulating a cost estimate:

- (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.

Section 17(5) of the Freedom of Information Act 2000 a public authority which, in relation to any request for information, is relying on a claim that section 12 or section 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.

### **Information provision outside the Freedom of Information Act 2000**

I acknowledge that we have identified that excess cost is an issue in this matter and that we are unable to provide the information that you require. In accordance with our duty under Section 16 to provide assistance in relation to requests for information and in keeping with the spirit of the Act, on this occasion, I am providing some retrieved information for that part of your request which was retrieved or available before it was realised that the fees limit would be exceeded. However, I realise that providing only partial information may not assist you.

For the sake of completeness I should also point out that as the whole request exceeds the fees limit we are not obliged to indicate further where either exemptions or a “neither confirm nor deny” response may have been relevant to any part of your request.

Should you be able to substantially amend your request it may be possible to provide some information within the fees limit. However, given the above position and in line with my

responsibilities under Section 16 of the Act I am at this time unable to offer any alternative(s). Additionally I need to add that it is our policy to decline the opportunity to undertake such retrieval at cost payment as the apparent result appears to be disproportionate to the effort of our resources to achieve it.

I am sorry that on this occasion we cannot provide the information that you requested but I hope you understand that there is a finite limit to the amount and scope of retrievable information we record in terms of effective resource use.

NB A public authority is not obliged to assist an applicant in redefining a request to within the time/cost limit, if there is no probability of achieving this. This was confirmed in Decision Notice 50194062.

1. Please see the attached policy. This can also be accessed via the below link.

<http://www.derbyshire.police.uk/About-us/Freedom-of-Information/Data-Protection.aspx>

Additionally individuals can apply for the deletion of records from national police systems via the below link:

<http://www.derbyshire.police.uk/Documents/About-Us/Freedom-of-Information/Policies/Review,RetentionandDisposal.pdf>

Furthermore, the College of Policing Authorised Professional Practice for Information Management contains a section on Retention, Review and Disposal which includes guidance on the deletion of custody images, see below link:

<https://www.app.college.police.uk/app-content/information-management/management-of-police-information/retention-review-and-disposal-of-police-information/#request-for-deletion>

Further details on deletion can also be accessed via the below link:

[https://www.acro.police.uk/acro\\_std.aspx?id=699](https://www.acro.police.uk/acro_std.aspx?id=699)

### **Right to Request a Review (Complaint)**

Your attention is drawn to the attached sheet, which details your right of complaint.

I would like to take this opportunity to thank you for your interest in Derbyshire Constabulary.

Should you have any further enquiries concerning this matter, please write or contact the Freedom of Information Officer, on the above telephone number quoting the reference number in the header.

Yours sincerely

Kevin Lea  
Freedom of Information Officer  
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