



Your reference:

Our reference: FOI_24_0070

E-mail: FOI

@gloucestershire.police.uk

Direct dial: 01452 754304

Postal Address: As above

Date: 08/02/2024

Dear

Gloucestershire Constabulary Freedom of Information request FOI_24_0070

On 15/01/2024 you sent an email constituting a request under the Freedom of Information Act asking the following:

I would like the information that you can legally disclose regarding PFI contracts held by Gloucestershire Constabulary.

I would like to know which, if any buildings, are held under PFI contracts.

I would like a copy of each contract if you can legally disclose it.

Under the Freedom of Information Act 2000 s1, I can confirm that Gloucestershire Constabulary holds some relevant information.

I can confirm that Gloucestershire Constabulary Headquarters building is subject to a single PFI contract which covers the construction, maintenance and service provision. This is a 30 year contract ending December 2035.

The contract is held between the Office of the Police & Crime Commissioner for Gloucestershire and Gloucestershire Facilities Management Services Ltd
Gloucestershire Facilities Management Services are the Special Purpose Vehicle (SPV) company.

With regards to a copy of the contract, whilst I can confirm that the Constabulary does hold a copy of the document, we are not obliged to supply the information you have requested.

Section 17 of the Freedom of Information Act 2000 requires Gloucestershire 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 applicable to the information requested is:

Section 14 – Vexatious or repeated requests

Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.

Gloucestershire Constabulary are unable to respond to your request for information as it is considered to be vexatious under Section 14(1) Freedom of Information Act (FOIA) 2000. Although there is no obligation on a public authority to articulate the reasons why a request is vexatious, the decision making thought process for applying this exemption has been provided below, along with some of the Information Commissioner's guidance on its application.

Whilst the FOIA has been designed to give the public access to information held by public authorities, Section 14(1) has been designed to protect these public authorities by allowing them to refuse any requests that have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.

The purpose of Section 14 was outlined during the Upper Tribunal in the case of [Information Commissioner vs Devon County Council & Dransfield \(2012\)](#):

“Section 14...is concerned with the nature of the request and has the effect of disapplying the citizen's right under Section 1(1)...The purpose of Section 14...must be to protect the resources (in the broadest sense of that word) of the public authority from being squandered on disproportionate use of FOIA...” (paragraph 10).

Additionally, the Information Commissioner's guidance encourages public authorities to consider the use of Section 14(1) in any case where it's believed the request is disproportionate or unjustified ([S.14 - dealing with vexatious requests](#))

In his guidance on Section 14(1), the Information Commissioner says an authority is likely to have a viable case where:

- The requester has asked for a substantial volume of information AND
- The authority has real concerns about potentially exempt information, which it will be able to substantiate if asked to do so by the ICO AND
- Any potentially exempt information cannot easily be isolated because it is scattered throughout the requested material.

Substantial volume of information

Whilst I can confirm Gloucestershire Constabulary does hold the information requested and therefore there are no issues regarding the engagement of Section 12 (cost of compliance exceeds appropriate limit) of FOIA, the PFI contract document is a very substantial document, running to many hundreds of thousands of pages, and Gloucestershire Constabulary are concerned that the document will more than likely contain information that needs to be exempt from disclosure. The contract would need to be reviewed line by line to determine whether the information within the document engages any of the exemptions within the FOIA.

Gloucestershire Constabulary has deemed that the process of identifying exempt information and redacting the necessary information to ensure it was suitable for public viewing, would take many weeks to complete. The process would include:

- Asking subject matter experts to review the documents contained within the master contract document to identify any information that would be harmful to disclose into the public domain.
- Reviewing these comments to determine whether any exemptions under FOIA were engaged
- Potentially seeking further clarification from subject matter experts regarding their reasoning why they highlighted a certain part of the document as harmful.
- Completing a final check of any proposed redactions and the arguments for / against applying the exemption before the redactions could be made and the response sent out to the requester.

This process would divert subject matter experts and staff from the Force Disclosure Unit away from their core functions for significant periods of time. The ICO has provided the following guidance in relation to this:

Requests which would impose a grossly oppressive burden but are not covered by the Section 12 cost limits

An Authority cannot claim Section 12 for the cost and effort associated with considering exemptions or redacting exempt information.

Nonetheless, it may apply Section 14(1) where it can make a case that the amount of time required to review and prepare the information for disclosure would impose a grossly oppressive burden on your organisation.

Real concerns about potentially exempt information

I can confirm it is likely that the following exemptions would be engaged:

- Section 24(1) – National Security
- Section 31(1) – Law enforcement
- Section 43 – Commercial Interests

The application of exemptions also requires completing prejudice and/or public interest tests, which allow the public authority to articulate the positive and negative effects disclosure would have on them.

Potentially exempt information cannot easily be isolated because it is scattered throughout

As a significantly large document has been requested, rather than specific information within the document, it could be argued you do not know what information you require but instead hope to find something of interest within the document. This can be seen as a 'fishing' expedition, as it is creating a burden on the authority by requiring us to spend a large amount of time considering any exemptions and redactions that may apply. Please see the page [Are random and speculative requests vexatious?](#) of the ICO guidance for further information.

Based on the above arguments, it is considered that complying with this request would be a burden on the authority and it is demonstrated how this would cause a disproportionate level of disruption. On this basis, Section 14(1) FOIA is engaged.

In accordance with section 17 of the Act, this letter represents a Refusal Notice for this particular request.

Under Section 16 of the Act – Duty to Assist, I can advise you that if there is specific information you require to be extracted from the document, this may be possible to retrieve. If this is the case, you can submit a new, refined request.

I would also like to take this opportunity to advise you that whilst the Constabulary holds a copy of the document, as the Office of the Police & Crime Commissioner for Gloucestershire are the contract owners, you may wish to submit a request for information directly with them.

If you are not satisfied with this response or any actions taken in dealing with your request, you have the right to ask that we review your case under our internal procedure. Please note that a request for an internal review must be made within 20 working days of the response to your original request.

If you decide to request that such a review is undertaken and following this process you are still unsatisfied, you then have the right to direct your complaint to the Information Commissioner for consideration.

The Information Commissioner can be contacted via the following means:

Website - <https://ico.org.uk/>

Call their helpline - 0303 123 1113

Email - casework@ico.org.uk

Post –

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,

Disclosure Officer
Gloucestershire Constabulary