

10 October 2024

FOI Ref 17142

Request - You asked us the following:

I request that you supply me with a copy of Staffordshire Police's (SP) most recent Microsoft Licensing Statement (MLS). I am not requesting this information to generate any business. We are not looking to buy, or, sell software licences, as we are no longer trading. We only want to understand how the force's Microsoft portfolio has evolved over the years and what (if any), perpetual licences are still owned.

We have reached out to almost every public authority in the country and have requested and received many MLS's. An MLS you may have that is dated in the last 4 years or so would normally be adequate. Please send me the full MLS which will have the following tabs along the bottom, which, will be, in the form of an Excel document

SP are obligated to supply/source the requested information. Please see information from the Information Commissioner's Office website below.

(2)For the purposes of this Act, information is held by a public authority if—
(a)it is held by the authority, otherwise than on behalf of another person, or
(b)it is held by another person on behalf of the authority.

Furthermore, the force has a legal right to call for/provide this under the terms of its contract with its software reseller, therefore this information is held by the reseller on behalf of the force under s.3(2) FOIA. It is therefore subject to FOIA. This is well-established in many decisions of the Commissioner and the FTT, see for example *Conscape Ltd v the Information Commissioner and the Department for Regional Development (Northern Ireland)*. Accordingly, the full unredacted MLS is disclosable under FOIA.

<https://www.casemine.com/judgement/uk/5b35bf882c94e01ed25502cd>

I would like to further explain my reasons for my request.

I believe that it is in the public's interest to obtain and supply me with the requested information. The document reflects information that already exists, which, is the force's licensing estate.

My employer, ValueLicensing, believes that there may have been, what we consider to be, illegal terms imposed on many organisations that have migrated to O365/M365. We believe that many public entities, have been effected at the time of migration to O365/M365. We believe that terms have been imposed, where organisations lost their right to sell previously used perpetual licences, at the time of migration, in exchange for discounts on new O365/M365 subscriptions. We believe this to have been an approach from Microsoft to remove perpetual licences from the marketplace, therefore removing the option for many to make significant savings on their licensing software expense, or alternatively, the ability to generate funds from selling unrequired perpetual licences. The revealing of illegal activity is in the public interest, as is the public money potentially lost as a result of Microsoft's alleged conduct.

Microsoft Licensing statements are not commercially sensitive. We want to review your MLS to understand how, and if, your force may have been affected. Similarly, only the most generic information about your IT

systems can be gathered by any potential cyber-attacker from your licensing estate, particularly where licences are no longer being used.

Many other public authorities (Including Police Forces) have provided Microsoft Licensing Statements which have been requested under FOIA. There is no reason why you should not send us the full MLS, in fact some public bodies such as Leicester City Council, have made their MLS available to all online, which, they surely would not have done if there was a security risk (Google snip below)–

We received your request on 12/08/2024 and have processed this under the Freedom of Information Act (FOIA).

Staffordshire Police's response to your enquiry is as follows:

Staffordshire Police holds the requested information.

- I request that you supply me with a copy of Staffordshire Police's (SP) most recent Microsoft Licensing Statement (MLS). I am not requesting this information to generate any business. We are not looking to buy, or, sell software licences, as we are no longer trading. We only want to understand how the force's Microsoft portfolio has evolved over the years and what (if any), perpetual licences are still owned. – **Withheld.**

The following exemptions have been applied:

In accordance with Section 17(1) of the Freedom of Information Act, this letter represents a refusal notice for this particular request.

- Section 43(2) Commercial Interests

This is a prejudice based qualified exemption which means there is a requirement to provide evidence of harm and a public interest test needs to be considered.

Harm:

The information relating to Microsoft Licensing Statement, if released into the public domain, would harm Staffordshire Police's negotiating position with regards to future contracts for equipment or services.

Public Interest Test

Factors favouring disclosure under Section 43(2)

Disclosure of the requested information would allow the public to be aware of how public funds are spent or allocated and thereby would provide transparency and accountability, showing that funds from the public purse are used appropriately and proportionally.

Factors favouring non-disclosure under Section 43(2)

Through disclosure of the requested information, Staffordshire Police would find that its negotiating position would be greatly impaired through the release of details that would not only likely be prejudicial to Staffordshire Police but also to the agencies/companies involved. Releasing this information would be

expected to have a detrimental effect on their ability to be competitive in the future and would be exceedingly likely to deter further enterprises submitting offers for tender in the future. This then would impede Staffordshire Police obtaining the most competitive or appropriate services in the future and negatively impact upon the public purse.

Balance test

It is the responsibility of Staffordshire Police, when dealing with commercial businesses, to not only protect their commercial interest but also that of Staffordshire Police. Commercial interests must be protected so that the best possible value for money is obtained through open competition, both for businesses and Staffordshire Police. This would not be achieved if full details were to be made available to the market. Although the use of public funds must be open and transparent, Staffordshire Police is accountable for the money that it spends and utilizes and if to release the information means the force is unable to negotiate future tendering and have the ability to secure value for money due to business relationships have been impaired, then this would not be in the public interest.

Having considered the public interest test factors, we are required to determine whether, on balance, the factors favoring disclosure outweigh those which are against disclosure. It is our view that the factors favoring disclosure do not outweigh those which favor withholding the details. Therefore, Staffordshire Police declines to provide the information for the reasons stated above.

Next steps

You can ask us to review our response.

If you would like us to carry out a review of our response, please let us know within two months of the date of receipt of this email, review requests should be addressed to:

foi@staffordshire.police.uk

Or by Post to:

Central Disclosure Unit
Staffordshire Police HQ
PO Box 3167
Stafford
ST16 9JZ

Please remember to quote the reference number in any future communications.

Freedom of Information
Central Disclosure Unit