

Freedom of Information Act 2000 (Section 50)

Decision Notice

Dated 20 September 2006

Public Authority: Metropolitan Police Service
Address: New Scotland Yard
10 Broadway
London
SW1H 0BG

Summary Decision and Action Required

The Commissioner's decision in this matter is twofold in that the public authority has not dealt with the complainant's request in accordance with Part I of the Act in that it has failed to comply with its obligations under section 1(1), section 10 and section 17. Further, the public authority has applied section 21 and its application of this is upheld by the Commissioner in respect of some of the information requested.

The public authority is required by this Decision Notice to provide some of the information requested (as detailed below) within 35 days.

1. Freedom of Information Act 2000 (the 'Act') – Application for a Decision and the Duty of the Commissioner

1.1 The Information Commissioner (the 'Commissioner') has received an application for a decision whether, in any specified respect, the complainant's request for information made to the public authority has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the 'Act').

1.2 Where a complainant has made an application for a decision, unless:

- a complainant has failed to exhaust a local complaints procedure, or
- the application is frivolous or vexatious, or
- the application has been subject to undue delay, or
- the application has been withdrawn or abandoned,

the Commissioner is under a duty to make a decision.

1.3 The Commissioner shall either notify the complainant that he has not made a decision (and his grounds for not doing so) or shall serve a notice of his decision on both the complainant and the public authority.

2. The Complaint

- 2.1 The complainant has advised that on 3 August 2005 the following information was requested from the public authority in accordance with section 1 of the Act.
- 2.2 *“1. What action does the MPS as an organisation take when a report of wrongdoing is made and who within the organisation is responsible for ensuring that that action is undertaken?*
- 2. What action is taken against staff members who are found to have deliberately failed to comply with MPS Policy and who within the organisation is responsible for ensuring that that action is undertaken?*
- 3. What support mechanisms are in place to support any member of staff who reports wrongdoing and who within the organisation is responsible for ensuring that those support mechanisms are implemented?*
- 4. IAW paragraph 6.2 of Special Notice 01-2004 When a report of wrongdoing is made to a senior member of line management staff by a member of lesser rank that staff member should "be dealt with according to principles of investigation and minimum standards for primary investigation of crime." what exactly are these?*
- 5. Were these actions carried out by the Commissioner in respect to my report of wrongdoing by senior members of his staff and if so who undertook them?*
- 6. What is the current MPS Policy on Bullying and who is responsible for ensuring that bullying is investigated and that the policy is actioned?”*
- 2.3 The complainant did not receive a response to his request for information until the Commissioner wrote to the public authority asking them to respond. It then responded by email of 12 September 2005, providing a Refusal Notice. The Refusal Notice stated that the information relating to policies requested by the complainant was available to him by other means and applied section 21 of the Act.
- 2.4 The public authority did not make any mention of the names of the individuals responsible for the policies, which had also been requested.

3. Relevant Statutory Obligations under the Act

Section 1(1) provides that –

“Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
- (b) if that is the case, to have that information communicated to him.”

Section 10(1) provides that –

“...a public authority must comply with section 1(1) promptly and in any event not

later than the twentieth working day following the date of receipt”.

Section 17 provides that –

“A public authority which... is to any extent relying:

- on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request, or
- 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 that fact,
- (b) specifies the exemption in question, and
- (c) states (if that would not otherwise be apparent) why the exemption applies.”

4. Review of the case

Scope of the review

4.1 Initially, the complaint was based upon the lack of response to his request. After eventually receiving the Refusal Notice, the complainant stated that:

- a) The Refusal Notice did not include the names of the individuals who were responsible for the policies that he requested and
- b) none of the information requested was being provided.

The Commissioner's Investigation

4.2 Upon receipt of the complaint, a letter was sent to the public authority asking that it respond to the request for information. Once it had responded and reviewed the decision, the complainant confirmed that he was not satisfied with the outcome. He therefore made a further complaint to the Commissioner regarding the application of section 21 and the fact that the request for responsible individuals' names had not been addressed.

4.3 During the investigation, the public authority stated that it felt that the complainant could gain access to the information requested elsewhere. The policies that he requested could be obtained via the public authority's publication scheme and that he could obtain the names he wanted could be obtained from within the public authority where he is employed. However, no reasonable explanation as to how these names could be obtained was provided.

4.4 The investigation concluded that the policies will be reasonably accessible to the

complainant but the public authority failed to demonstrate that the names requested were available and did not make any reference to the names within the Refusal Notice.

5. The Commissioner's Decision

5.1 The Commissioner's decision in this matter is that:

The Public Authority has not dealt with the Complainant's request in accordance with the following requirements of Part I of the Act:

Section 1(1) – in that it failed to communicate to the Complainant such of the information specified in his request as did not fall within any of the absolute exemptions from the right of access nor within any of the qualified exemptions under which the consideration of the public interest in accordance with section 2 would authorise the Public Authority to refuse access. This is in respect of the names requested.

Section 10(1) - in that it exceeded the statutory time limit for responding to a request made under section 1(1).

Section 17 – in that it refused the Complainant's request for information but when communicating this to the Complainant failed, under sub-section (1)(a) to state in the case of the names requested that the information sought was exempt information. This again, is in respect of the names requested.

5.2 The public authority has dealt with the Complainant's request in accordance with the requirements of Part I of the Act in applying the following exemption under Part II of the Act:

Section 21 – (1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.

5.3 The Commissioner is satisfied that the complainant as an employee of the public authority would have access to the public authority's intranet system which contains details of the policies requested.

6. Action Required

6.1 The Commissioner requires the public authority to provide the names requested in relation to responsibility for each policy as requested by the complainant or a section 17 compliant Refusal Notice in respect of those names within 35 days of the date of this Notice.

7. Right of Appeal



7.1 Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "Tribunal"). Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

7.2 Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 20th day of September 2006

Signed

**Graham Smith
Deputy Commissioner**

**Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**