

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 7 March 2011

Public Authority: Lancashire Constabulary
Address: Saunders Lane
Hutton
Preston
PR4 5SB

Summary

The complainant made a request for procedural documents or guidance relating to the dress code of police officers within the public authority in differing operational situations. The public authority refused to respond to the complainant's request as it was submitted via email and they had instigated a restricted access policy in relation to the complainant. This policy required the complainant to address his correspondence to a named individual within the public authority and required the complainant to correspond solely by conventional mail. The complainant re-submitted his request as required by the public authority's policy. The public authority responded to the complainant's request within the statutory timescale.

The complainant complained to the Commissioner that his initial request should have been treated as a valid request under the Act. The Commissioner finds that no breach of the Act has occurred as a response was provided to the complainant in a timely manner. He does, however, point out to the public authority that the complainant's initial request was valid and should have been treated as such.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

Background

2. The complainant has made a significant number of information requests under the Act to Lancashire Constabulary (the Constabulary) over several years. He has also made numerous complaints to and about the Constabulary and has engaged in protracted correspondence with it. In consequence the Constabulary decided to set up an individual contact point through which he could make his requests. It was explained that contact was to be restricted via written letter, sent to a specific address and that any emails or telephone calls from the complainant would be blocked. This was advised to the complainant in a letter of 11 March 2010.

The Request

3. The complainant made the following request via the website 'What Do They Know' on 16 October 2010:

'Can you please supply all procedural documents or guidance as to what uniform/safety equipment/visibility function is applicable or compulsory in the following circumstance? Quite simply what type of uniform etc is worn in the following work scenarios?

1/ Normal foot patrol.

2/ Normal vehicular patrol

3/ Riot control.

Can you also supply information as to what regulations or protocols stipulate which uniform etc is compulsory in each scenario? Procedural documents will suffice.'
4. Lancashire Constabulary responded to the complainant on 28 October 2010. In this, the Constabulary reaffirmed its stance that it would not respond to requests made by the complainant via email. As such, the request was not responded to.
5. The complainant subsequently re-submitted his request via written letter. The re-submitted request was received by the Constabulary on 3 November 2010 and a substantive response to the request was provided on 08 November 2010.
6. In an email of 20 December 2010 the complainant confirmed receipt of the Constabulary's response and confirmed his satisfaction with it. He stated he did not require an internal review.

The Investigation

Scope of the case

7. On 15 November 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. In this, the complainant explained that he was dissatisfied that his initial request, submitted through 'What Do They Know' on 16 October 2010, had not been treated as a request under the Act. He considered his request to have satisfied the requirements of a request, as defined in section 8 of the Act (see Legal Annex for full definitions of all legislation cited).

Chronology

8. The Commissioner contacted the complainant on 20 December 2010 to outline the scope of the investigation: whether or not the Constabulary should have treated his initial request as a valid request under the Act. The complainant accepted the scope of the investigation as outlined (as well as providing what he believed to be supporting submissions) in the aforementioned email of 20 December 2010.
9. The Commissioner also contacted the Constabulary on 20 December 2010 to outline the scope of his investigation and to invite it to provide its rationale for not treating the complainant's request as a valid request under the Act.
10. The Constabulary responded to the Commissioner on 18 January 2011. It explained the rationale behind why it had implemented its policy regarding the complainant's requests. This being its previous dealings with the complainant and the volume of correspondence received by it from him. The Constabulary explained that this would facilitate the complainant's requests reaching the correct person within the Constabulary, in a timely manner, and take away the burden of other members of staff also having to deal with his correspondence.

Analysis

Substantive Procedural Issues

11. In order to come to a decision as to whether or not the Constabulary should have treated the complainant's request of 16 October 2010 in the way that they did, the Commissioner needs to consider the definition of a valid request under the Act. Section 8 provides that:

"In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,
- (b) states the name of the applicant and an address for correspondence, and
- (c) describes the information requested."

Section 8(2) provides that –

"For the purposes of subsection (1)(a), a request is to be treated as made in writing where the text of the request –

- (a) is transmitted by electronic means,
- (b) is received in legible form, and
- (c) is capable of being used for subsequent reference."

12. The Commissioner therefore considers a valid request to be one which is made in writing, named, provides an address to respond to and describes the information requested. He also considers a request submitted by email to be a request in writing.
13. In this case the initial request was made in writing, via email through the 'What Do They Know' website and the address to respond to was an email address linked to this website. The Commissioner also considers it clear from the complainant's request that it describes the information requested.
14. The Commissioner appreciates the reasons behind why the Constabulary has instigated its policy regarding correspondence from the complainant, given the substantial amount of correspondence which it receives from him and its general wish to facilitate his requests and reduce the burden on the staff of the Constabulary as a whole (in handling the complainant's correspondence). However, in this case the Commissioner does consider the complainant to have made a valid request under section 8 of the Act. (This would also be the case with any future requests made by the complainant through the same website.)
15. The Commissioner would point out to the Constabulary that there is nothing to stop it receiving emailed requests from the What Do They Know website, identifying that they originated from the complainant and then forwarding them on to its designated point of contact within the Constabulary.
16. Having confirmed that this was a valid request, the Commissioner points out, however, that in this case there has been no breach of the Act for the following reason.

17. Given that the complainant re-submitted the request in writing and a substantive response was provided on 8 November 2010 (this being within 20 working days of when the request was originally made on the 'What Do They Know' website) he is satisfied that the Constabulary has met its obligations imposed by sections 1(1)(a) and 10(1) of the Act.

The Decision

18. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act. There has been no breach of any sections of the Act. The Commissioner does however feel it is necessary to point out to the Constabulary that, under section 8, the complainant did make a valid request and any similar submission would be considered as such.

Steps Required

19. The Commissioner requires no steps to be taken.

Right of Appeal

20. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

21. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
22. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 7th day of March 2011

Signed

**Alexander Ganotis
Group Manager – Complaints Resolution**

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

Legal Annex

Freedom of Information Act 2000

General Right of Access

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."

Request for Information

Section 8(1) provides that -

"In this Act any reference to a "request for information" is a reference to such a request which -

(b) is in writing,

(c) states the name of the applicant and an address for correspondence, and

(d) describes the information requested."

Section 8(2) provides that -

"For the purposes of subsection (1)(a), a request is to be treated as made in writing where the text of the request -

(c) is transmitted by electronic means,

(d) is received in legible form, and

(e) is capable of being used for subsequent reference."

Time for Compliance

Section 10(1) provides that –

“Subject to subsections (2) and (3), 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.”