

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 September 2011

Public Authority: Chief Constable of West Midlands Police
Address: PO Box 52
Lloyd House
Colmore Circus
Queensway
Birmingham
West Midlands
B4 6NQ

Decision

1. The complainant has requested:

My request is as follows: -

That the West Midlands Police under the Investigation conducted by themselves named 'Operation Scriber' concluded in this investigation that there were 7 culpable parties identified in relation to the death of [a named individual].

I am therefore requesting a new disclosure under these terms, and seek the disclosure in broad terms of the parties identified in the aforementioned investigation that were mentioned in the summary report following this investigation.'

2. The Commissioner's decision is that West Midlands Police (the Police) has correctly cited section 14(2) of the Act (repeated requests) to the complainant's request for information.
3. The Commissioner requires the public authority to take no further steps to ensure compliance with the legislation.

Request and response

4. On 9 November 2010, the complainant wrote to the Police and requested information in the following terms:

'My request is as follows: -

That the West Midlands Police under the Investigation conducted by themselves named 'Operation Scriber' concluded in this investigation that there were 7 culpable parties identified in relation to the death of [a named individual].

5. 'I am therefore requesting a new disclosure under these terms, and seek the disclosure in broad terms of the parties identified in the aforementioned investigation that were mentioned in the summary report following this investigation.' (Request B)
6. The Police responded on 30 November 2010. It stated that the complainant's request was a repeated request of one which he had previously made on 3 September 2010. The request made on 3 September 2010 was as follows:

'...a copy of [a named Police Officer's] final report, where he identifies the parties who his investigation identified as culpable in relation to [a named person's death].' (Request A)
7. The complainant requested an internal review of the refusal notice issued regarding Request B on 30 November 2010. Following an internal review the Police wrote to the complainant on 13 December 2010. It stated Request B was 'substantially similar' to Request A. It considered that '...[C]learly the information for your latest request would be contained in any material relevant to the original request. Therefore, although the second request is a refinement, it clearly refers to information that would be captured by the first request. For this reason it is considered that the request is for the same material.'

Scope of the case

8. On 3 February 2011 the complainant contacted the Commissioner to complain about the way his request for information had been handled. He did not consider Request B to be a repeat of Request A.
9. The Commissioner considers the scope of this investigation to be whether or not the Police were correct to state that Request B is for the same information previously requested by the complainant in the request referred to above as Request A.

Reasons for decision

10. Section 14(2) of FOIA states that:

'Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply

with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with a previous request and the making of the current request.'

11. For a request to be considered a 'repeated request' it therefore has to be identical or substantially similar to a previous request by the same applicant, without a reasonable interval between compliance with the previous request and the making of the current one.
12. The Police has confirmed that both Requests A and B were submitted by the complainant using the same email address. The Commissioner has corresponded with the complainant using the same email address as quoted by the Police. In light of this, he accepts that both Requests A and B were made by the complainant.
13. The Commissioner considers Request A to be a request for a report which, if the Police held it, may identify parties to an investigation. The Commissioner considers Request B to be for a separate request for information, which, if the Police held it, may identify the same parties as may be identified from the report the complainant believes the Police hold in Request A.
14. The Commissioner accepts that Requests A and B are aimed at gathering the same information: the identities of particular parties to a potential investigation. The requests are therefore 'identical or substantially similar', as they are requests seeking the same information.
15. The complainant made Request A on 3 September 2010. The Police did not initially recognise Request A as one made under the Act and so provided a response under the usual course of business. This stated that the complainant was not entitled to the requested information. The complainant progressed this to an internal review; the internal review was provided on 9 November 2010. In this the Police stated that its response, under FOIA, should have been to state that it could neither confirm nor deny whether information exists, following the Law Enforcement exemption (s31(1)(c) of the Act). On the same day as this internal review response, the complainant submitted Request B.
16. The Commissioner considers that, in the circumstances of this case, the space of time between Requests A and B is not a reasonable interval, '...between compliance with a previous request and the making of the current request.'
17. Given that the requests are both for the same information, were made by the same person and there was no reasonable interval between the requests, the Commissioner considers Request B to be a repeat of Request A. The Commissioner therefore accepts that the Police correctly cited section 14(2) of the Act to the complainant's request.

Right of appeal

18. 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: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

19. 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.
20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Signed

Alexander Ganotis
Group Manager – Complaints Resolution
Information Commissioner’s Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF