

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 July 2012

Public Authority: Chief Constable of Northumbria Police
Address: Police Headquarters
North Road
Ponteland
Newcastle Upon Tyne
NE20 0BL

Decision (including any steps)

1. The complainant has requested information concerning any press statements that the public authority has made concerning copyright complaints in May and June 2011. The public authority provided the information but the complainant did not accept that he had been given all the information held. The Information Commissioner's decision is that the public authority has complied with the request and he does not require any steps to be taken.

Background

2. The request can be followed on the "What Do They Know" ("WDTK") website¹.
3. It may be helpful to consider a further decision notice which is being written at the same time as this one and relates to a similar topic. Its reference is FS50435642.

¹ http://www.whatdotheyknow.com/request/northumbria_police_press_office

Request and response

4. On 18 July 2011, the complainant wrote to the public authority and requested information in the following terms:

"I am requesting this information under section 84 of the FOIA, 'information recorded in any form' as follows;

Can you please confirm if Northumbria Police and or its Press Office have released any statements to the Press concerning Infringes of NP copyright on facebook ... as follows;

1. Have Northumbria Police, its Press Office dealt with any enquiries from the media, either verbal or written, concerning alleged Infringes of NP copyright on facebook etc during May and June 2011? If so please supply all information.

2. Please supply copies of all/any requests by the media as well as NP's replies, press statements, either verbal or written, relating to 1 above".

5. The public authority responded on 25 July 2011. It provided information about two such enquiries.
6. On 25 July 2011 the complainant wrote again, specifying that the current communication was not a request for an internal review. He stated:

"... Northumbria Police have not released the information or documents which I requested, i.e. under section 84 of the FOIA, 'information recorded in any form'. This includes written notes and or documents etc. Please can Northumbria Police now release the requested information".

7. On 29 July 2011 the public authority responded as follows:

"The Freedom of Information Act gives members of the public access to information held by the Force, it must be noted that the Act does not give access to documentation held by the Force. As you have stated, the Act is very clear on the point regarding information.

It is not a requirement to provide copies of documentation held, the Act gives access to the information held in those documents

rather than the documents themselves. I have attached a link to further information on this point which you may find useful.

[1]<http://www.justice.gov.uk/guidance/freed...>

In response to your further query below, I personally visited the Media Team and reviewed the information they held. I can confirm that you have been provided with the information eligible for disclosure in response to this request.

To further aid and assist I can confirm that the Media Team verbally consulted with The Professional Standards Department, the Legal Department and the Corporate Communications Team in order to provide a response to the journalist. These areas had nothing physically recorded and gave information from memory to assist the Media Team and in turn the journalist.

Having fully responded to your request and provided further advice, Northumbria Police consider this matter closed".

8. On 29 July 2011 the complainant wrote again saying:

"...You claim that; 'Media Team verbally consulted with Professional Standards Department, the Legal Department and the Corporate Communications Team in order to provide a response to the journalist.'" This is not normal practice surly [sic]. This information should have been supplied to me by NP before now.

Please supply me with all of the information relating to all contact between above parties concerning this matter too, copies of all notes, emails and other information relating to all contact between Media Team the Professional Standards Department, the Legal Department and the Corporate Communications Team. Please also include the name/s of all of those involved and give reasons for their involvement [sic] in this matter".

9. On 2 August 2011 the public authority advised the complainant:

"You have been supplied with a response to your request and further clarification on that response.

Should you remain dissatisfied, you may wish to request an internal review of the way your request has been handled".

10. Following interim correspondence the complainant asked for an internal review on 31 August 2011.
11. On 25 November the public authority provided its internal review. It advised the complainant that it believed it had already provided him with a full response and that any further related requests would be deemed to be vexatious.
12. The complainant originally passed this case to the Information Commissioner on 18 November 2011. His complaint was, at that time, that the public authority had not provided an internal review. However, the internal review was subsequently completed, so the Information Commissioner advised the complainant that he was unable to take the case forward unless the complainant specified what his grounds of complaint were following this internal review. The complainant initially refused to do so, expecting the Information Commissioner to peruse lengthy correspondence on this (and several other complaints) on his behalf. The Information Commissioner declined to do so and closed the original complaint.
13. There is considerable further correspondence which can be followed on the WDTK website.

Scope of the case

14. On 8 February 2012 the complainant contacted the Information Commissioner again to outline his complaint. The Information Commissioner clarified with the complainant that the following were the issues he wished to have addressed:
 - whether the public authority has hidden, concealed or destroyed the information requested;
 - the length of time taken to provide an internal review;
 - whether the public authority holds any recorded information.
15. The Information Commissioner is unable to consider the first two issues by way of decision notice; however, he is able to consider whether or not the public authority 'holds' any information which he will do below.
16. The Information Commissioner has referred to the length of time to conduct an internal review in "*Other matters*" at the end of this notice.
17. The complainant also raised other issues which fall outside of the Information Commissioner's remit.

Reasons for decision

Section 1

18. Section 1(1) of Freedom of Information Act 2000 states 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.”

19. The effect of section 1(1)(a) and (b) is that a public authority is under a duty to confirm to a requestor whether or not it holds the requested information, and if it does, to provide it to the requestor unless it can rely on one of the Act's exemptions.
20. In determining whether a public authority holds requested information, the Information Commissioner makes enquires that will satisfy the civil standard of proof: that is, on the balance of probabilities, whether the public authority holds the requested information.
21. In deciding where the balance of probabilities lies, the Information Commissioner questioned the public authority about the way it would handle this type of data and the procedures it had in place for recording this information. He also considered any other information or explanation offered by the public authority which was relevant to the complaint.
22. Within its responses on the WDTK website the public authority has explained to the complainant that it had searched for information in its Corporate Communications Department and then went on to disclose this in full. The complainant then clarified that he also required: *“written notes and or documents etc”*. The public authority clarified to the complainant that the FOIA gives access to information rather than documentation; the Information Commissioner concurs with this view and, having seen the information held, accepts that this has all been provided to the complainant.
23. When the complainant queried the disclosure the public authority also advised him:

"In response to your ... query ..., I personally visited the Media Team and reviewed the information they held. I can confirm that you have been provided with the information eligible for disclosure in response to this request.

To further aid and assist I can confirm that the Media Team verbally consulted with The Professional Standards Department, the Legal Department and the Corporate Communications Team in order to provide a response to the journalist. These areas had nothing physically recorded and gave information from memory to assist the Media Team and in turn the journalist".

24. During his investigation, the Information Commissioner asked the public authority to again clarify what searches it had carried out to try to locate information falling within the scope of this request. He was advised that:

"Information was sought from the Corporate Communications, Professional Standards and Legal Departments in order to locate information held within the scope of the request. Specifically, the Corporate Communications Department has a Press Enquiry process in place to capture requests made by Journalists and responses provided. Occasionally, questions are posed to the Professional Standards and Legal Departments in error and we consulted with these Departments for completeness".

25. Based on the subject matter of the request, the Information Commissioner accepts that the public authority has made enquiries within the appropriate departments of its organisation. Having found some information this was provided to the complainant in response to his request. Based on the balance of probabilities, and in the absence of any evidence from the complainant to support the contrary conclusion, the Information Commissioner accepts that no further information is held by the public authority, and he therefore concludes that it has complied with the request in full.

Other matters

26. Although they do not form part of this decision notice the Information Commissioner wishes to highlight the following matters.

Internal review

27. Part VI of the section 45 Code of Practice makes it desirable practice that a public authority should have a procedure in place for dealing

with complaints about its handling of requests for information, and that the procedure should encourage a prompt determination of the complaint. As he has made clear in his *'Good Practice Guidance No 5'*, the Information Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by the Act, the Information Commissioner has decided that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days.

28. The Information Commissioner does not consider this case to be 'exceptional', so is concerned that it took over 20 working days for an internal review to be completed.

Right of appeal

29. 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,
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

30. 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.
31. 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

Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF