

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 15 August 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 requested information in connection with correspondence received from the Crown Prosecution Service (the "CPS"). The public authority initially advised the complainant that his request was 'vexatious' and further explained that some of the information might be his 'personal data'. During the Information Commissioner's investigation the public authority changed its position and relied only on sections 40(1) and (2). The Information Commissioner considers that any information would be the complainant's 'personal data' as it would all relate to correspondence about him. It would therefore be exempt by virtue of the exemption at section 40(1). Furthermore, the exemption provided by section 40(5)(b)(i) should have been applied which means that the public authority was not required to confirm or deny whether it holds any information under the Act. As the complainant has already been advised how to make a request for his personal data the Information Commissioner does not require any steps to be taken.

## Background

---

2. The request can be followed on the "What Do They Know" ("WDTK") website<sup>1</sup>.
3. The quote from the CPS that is cited at the beginning of the information request is in response to the following earlier information request:

*"Please supply all information, details concerning any contact between CPS, including its FOI dept, and Northumbria Police during the 12 months, between 14th July 2010 and 14th July 2011 concerning the [name removed] case".*

This request can also be followed on WDTK<sup>2</sup>.

## Request and response

---

4. On 14 September 2011, the complainant wrote to the public authority and requested information in the following terms:

*"The CPS have written a letter dated 9th Sept 2011, link here: <http://www.whatdotheyknow.com/request/82...> and within their letter they included the following;*

*'On 12.1.11 Our Counter Terrorism Division contacted a Superintendent at Northumbria Police who confirmed that for the last four months they have been inundated with related FOI requests and so had the PSNI. Accordingly, they had received guidance from the ACPO Central Referral Unit.'*

*Under the freedom of information act can you please supply me with all correspondence, information and documents relating to this matter. Please also include for details, including copies of all*

---

<sup>1</sup>[http://www.whatdotheyknow.com/request/re\\_acpo\\_guidance\\_northumbria\\_pol](http://www.whatdotheyknow.com/request/re_acpo_guidance_northumbria_pol)

<sup>2</sup>[http://www.whatdotheyknow.com/request/martin\\_mcgartland\\_attempted\\_murd\\_3#comment-21202](http://www.whatdotheyknow.com/request/martin_mcgartland_attempted_murd_3#comment-21202)

*advice or 'guidance from the ACPO Central Referral Unit' relating to this matter, all FOI requests and or my cases.*

*I must add that the comments by the CPS within their letter concerning; '... a Superintendent at Northumbria Police who confirmed that for the last four months they have been inundated with related FOI requests and so had the PSNI.' There are going to be requests made when NP refuse to answer FOI request/s, when NP and its officers act corruptly, when NP collude with others, when NP cover-up, when NP break the Law and when NP continually lie, when NP do not answer my questions (as the victim, when NP refuse to update me as the victim, as they are required to do by law etc etc. This is what [names removed] and many other bent cops within NP have been doing. That is what they have done, what they continue to do when dealing with me, my attempted murder case. Moreover, the fact of the matter is that NP have never released any of the information I have been requesting or asked for, what NP have done is lied and claimed that my requests have been or were 'vexatious' when the truth is they themselves were saying this to cover-up their own wrongdoing and serious corruption in my case. They continue to do so even to this day".*

5. The public authority responded on 17 October 2011. It stated that:

*"This request is clearly on a subject previously declared as vexatious under Section 14 of the Freedom of Information Act 2000 and therefore requires no acknowledgement or response. However, as some of the information may be classed as personal data, you may wish to submit a subject access request to this office. The request will then be considered under section 7 of the Data Protection Act 1998.*

*I have attached a link to further information on how to make such a request below".*

6. The complainant asked for an internal review on the same day.
7. Following an internal review the public authority wrote to the complainant on 28 November 2011. It concluded that it had provided adequate advice on how to make a subject access request for any of the complainant's 'personal data'. It also found that the remainder of the request was 'vexatious'.
8. 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 that he was unable to take the case forward unless the complainant supplied his grounds of complaint following this internal review. The complainant initially declined to do this, and so the Information Commissioner closed the original complaint.

9. Further correspondence can be followed on the WDTK website.
10. During the course of the Information Commissioner's investigation the public authority changed its position. Rather than relying on section 14(1) it advised that it wished only to rely on sections 40(1) and (2) of the Act.

### **Scope of the case**

---

11. 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:
  - the length of time taken to conduct an internal review;
  - whether the request is vexatious.
12. Although the public authority is no longer relying on section 14(1), the Information Commissioner has used his discretion and has considered the application of section 40.
13. The Information Commissioner has referred to the length of time to conduct an internal review in "*Other matters*" at the end of this notice.
14. The complainant also raised other issues which fall outside of the Information Commissioner's remit.

### **Reasons for decision**

---

#### **Section 40 – personal data**

15. Under section 40(1) information that is requested that constitutes the applicant's 'personal data' is exempt information. This exemption is absolute and requires no public interest test to be conducted. In addition, in relation to such information public authorities are not obliged to comply with the obligation to confirm or deny whether they hold the requested information, by virtue of section 40(5)(a).

16. After careful consideration of the wording of the request, the Information Commissioner is satisfied that the complainant is, or would be, the subject of all of the information requested. This is because the requested information all focuses on the complainant, as shown in paragraph 3 above. Therefore, all the information would identify him, be linked to him and would relate to issues involving his interaction with the police. Further, the public authority was not required, by virtue of section 40(5)(a), to confirm or deny holding the information, because to do so would itself unfairly disclose personal data of the complainant. .
17. The Information Commissioner further notes that the information requested, if held, would contain information about third parties, ie those who are referred to in any of the correspondence that may exist. However, as he considers that the information is properly exempt by virtue of the absolute exemption at section 40(1) he has not gone on to consider whether section 40(2) – or indeed section 40(5)(b) – would be properly cited in respect of this information.

## **Other matters**

---

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

### *Internal review*

19. 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.
20. 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

---

21. 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](mailto:informationtribunal@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

22. 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.
23. 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**