

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 May 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 about the public authority's processes for dealing with complaints. The public authority advised that the information was already available to him and provided links to the relevant documentation, thereby stating that the information was exempt by virtue of section 21 of the FOIA. The Information Commissioner's decision is that the public authority responded properly to 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.

Request and response

3. On 2 August 2011, the complainant wrote to the public authority and requested information in the following terms:
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¹http://www.whatdotheyknow.com/request/complaints_made_against_chief_su

"I seek the following information under the Freedom of Information Act. Please release all information, including copies of all documents relating to Northumbria Police policy and procedures relating [sic] to following;

1. Processes for dealing with complaints relating to members of the Northumbria Police professional standards department.

2. Processes for dealing with complaints made against Chief Superintendent [name removed], who is also the head of Northumbria Police professional standards department.

3. I have just made complaints against Superintendent [name removed], who is also the head of Northumbria Police professional standards department. What processes are in place for dealing with such complaints against Chief Superintendent [name removed], head of Northumbria Police professional standards department regards the issue of fairness and impartiality ...".

4. The public authority responded on 31 August 2011. It provided links to the relevant information, which was held on its website, and stated:

"As the information you have requested is accessible by other means I have not provided you with a copy of the information and will rely on Section 21 of the Freedom of Information Act 2000. You should therefore consider this a refusal for your request".

It also advised that it had aggregated the cost of complying with this request with some of the complainant's other requests on similar subject matters. It also stated that future requests, on similar subject matters, would be deemed vexatious.

5. The complainant responded with a further request stating:

"You have stated in your latest reply that; 'Please note this request has been aggregated with your previous requests regarding complaints, FOIs 582/11, 501/11 and 487/11 ...'

1. Please supply me with links to each of those requests.

2. Please also explain NP's reasons for the 'aggregated' of each of the above requests".

6. The public authority provided links to the complainant's earlier requests and explained about aggregation of costs in respect of different requests on similar subject matters.
7. On 4 September 2011 the complainant asked for an internal review.
8. On 24 November 2011 the public authority provided its internal review. It maintained its previous position. However, in order to further assist the complainant, it advised him:

"The response provided to you provided links to the following:

*Northumbria Police web-site – This gives general information on The Professional Standards Department.
The Police Reform Act & Police (Conduct) Regulations 2008 - these govern how complaints are handled.
The IPCC Statutory Guidance – At section 112 & 113 of this guidance, there is a section entitled "Complaints against professional standards personnel. This is specific information on the process in place for dealing with complaints about members of the professional standards department.*

I am satisfied that these links provided a full response to your request and am satisfied that the exemption applied (Section 21(1)) was therefore, also appropriately applied. However, to further assist and close this issue, I have attached the extract from the IPCC Guidance that provides you with an answer to your Freedom of Information request".

It went on to include the extract to which it had referred.

9. 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. The Information Commissioner therefore advised the complainant that he was unable to take the case forward unless supplied with the complainant's grounds of complaint following this internal review. The complainant initially refused to do so, and instead asked the Information Commissioner to conduct a trawl through the lengthy correspondence on this (and several other complaints). The Information Commissioner declined to do so and closed the original complaint.
10. There is further correspondence which can be followed on the WDTK website.

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 public authority could aggregate costs;
 - whether the request is vexatious;
 - whether section 21 applied.
12. The Information Commissioner has referred to the length of time to conduct an internal review and the aggregation of requests in "*Other matters*" at the end of this notice.
13. As the public authority has not relied on section 14 the Information Commissioner is unable to consider it in the body of this decision notice. However, in light of the complainant's inclusion of the issue within the scope of the complaint, he has commented 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 21 – information accessible by other means

15. Section 21(1) of FOIA can be applied when all the relevant requested information is reasonably accessible to the applicant. It is an absolute exemption and so there is no public interest test.
16. The complainant has asked for various 'processes' which detail how the public authority deals with complaints made against its staff. In its response the public authority has provided the complainant with links to the various pieces of statute and policy concerned. These are all online.
17. The Information Commissioner also notes that in a further attempt to assist the complainant the public authority has provided an extract from within one of the documents which pinpoints the most relevant part of that document in relation to the request.

18. The complainant has provided no argument to suggest why the response has not satisfied his request.
19. The Information Commissioner concludes that the links provided clearly lead to the information which has been requested. This is in compliance with the FOIA and he finds no breaches.

Other matters

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

Internal review

21. 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.
22. 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.

Aggregation of requests

23. The public authority has referred to the aggregation of requests for the purposes of applying the cost limit under the fees regulations. However, as the application has not resulted in the complainant being denied access to any information, the limit clearly not having been reached, the Information Commissioner has not considered this further at this stage.

24. The Information Commissioner has produced guidance on the aggregation of requests which can be found on his website². These include the following:

“The Fees Regulations state that two or more requests to one public authority can be aggregated for the purposes of calculating costs if they are:

- *by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign;*
- *for the same or similar information; and*
- *the subsequent request is received by the public authority within 60 working days of the previous request.*

The intention of this provision is to prevent individuals or organisations evading the appropriate limit by dividing a request into smaller parts.”

25. The Information Commissioner therefore considers it good practice for the public authority to outline to the complainant that the requests he is making may ultimately result in them being refused on the grounds of exceeding the cost limit.

Vexatious requests

26. The public authority has not relied on section 14 so the Information Commissioner has not considered it in his analysis above. However, he thought it would be useful to provide the following information.
27. The Information Commissioner has produced specialist guidance on vexatious requests which can be found on his website³. This includes the following extract:

“Refusing the request

If you decide that a request is vexatious or repeated, you must issue a refusal notice to the requester within 20 working days. The refusal notice should state that you are relying on section 14(1) or 14(2) and give details of your internal review procedures and the right to appeal to the ICO.

²http://www.ico.gov.uk/Global/faqs/~/_media/documents/library/Freedom_of_Information/Detailed_specialist_guides/using_the_fees_regulations.ashx

³http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/awareness_guidance_22_vexatious_and_repeated_requests_final.pdf

However, section 17(6) says you will not need to issue a new refusal notice if:

- you have already given the same person a refusal notice for a previous vexatious or repeated request; and*
- it would be unreasonable to issue another one.*

Refusing a request as vexatious or repeated is particularly likely to lead to an internal review or an appeal to the ICO. Whether or not you issue a refusal notice, you should therefore keep written records clearly setting out the procedure you followed and your reasons for judging the request as vexatious or repeated, so that you can justify your decision to us if necessary”.

28. It is clear to the Information Commissioner that the public authority is 'preparing' itself for future requests which relate to specific subject matters; this is in line with the guidance he has issued above. The Information Commissioner considers it good practice for the public authority to outline to the complainant that the requests he is making may ultimately result in them not being acknowledged on the basis that they are considered to be vexatious.

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**