

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 20 May 2013

**Public Authority:** The Chief Constable of Hertfordshire  
Constabulary

**Address:** Police Headquarters  
Stanborough Road  
Welwyn Garden City  
Hertfordshire  
AL8 6XF

#### **Decision (including any steps)**

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1. The complainant has requested information concerning any disciplinary action taken against an unnamed Police Community Support Officer ("PCSO"), as reported in a local newspaper. The public authority advised that to comply with the request would breach section 40(2) of the FOIA. During the course of the Commissioner's investigation the public authority responded to the request; the complainant did not accept the adequacy of the response. The Commissioner's decision is that, although belatedly, the public authority did respond to the request. He does not require any steps to be taken.

#### **Background**

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2. The request includes a link to a local newspaper article. The associated story is entitled: "*Police officer disciplined over yellow line offence*".

## Request and response

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3. On 30 November 2012, the complainant wrote to the public authority and requested information in the following terms:

*"Under the freedom of information act I would like to know what punishment this officer recieved [sic] that is printed in the Herts & Essex Observer as I feel Chief Inspector Gerry McDonald's comment that the person involved will be dealt with under the disciplinary code is not enough.*

*<http://www.hertsandessexobserver.co.uk/News/Bishops-Stortford/Police-officer-disciplined-overyellow-line-offence-28112012.htm>*

*We as the general public have a right to know what is going to happen to this PCSO and what punishment she recieved [sic] if any".*

4. The public authority responded on 3 December 2012. It refused to provide the requested information saying that it was exempt under section 40(2) of the FOIA and that disclosure of the PCSO's personal data would not be fair.
5. Following an internal review the public authority wrote to the complainant on 5 December 2012 maintaining its position.

## Scope of the case

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6. On 5 December 2012 the complainant contacted the Information Commissioner to complain about not receiving the information he requested. Within his complaint he refers to wishing to know the name of the PCSO concerned; however, as he did not ask for this as part of his information request the Commissioner will not consider this element.
7. During the course of his investigation, the public authority wrote to the complainant withdrawing reliance on section 40(2) and confirming that the PCSO concerned had received a reprimand. The Commissioner therefore wrote to the complainant inviting him to withdraw his complaint, but he responded saying:

*"I am not happy and wish to take the matter further, what do the police mean by reprimanded, it could mean just the sargent [sic] just saying with a nod and a wink 'Dont do it again' or reprimaned [sic] could mean a written warning. I think the public have the right to see what our taxesare [sic] spent on and so would like proof of the reprimand and full details enclosed to the public".*

8. The Information Commissioner will therefore consider whether or not the public authority responded adequately to the request.

## **Reasons for decision**

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### **Section 10 – time for compliance**

9. Section 10(1) of FOIA provides that a public authority should comply with section 1(1) within 20 working days.
10. The request was submitted on 30 November 2012 but, although it confirmed that it held the requested information, the complainant was not provided with it until 8 April 2013. The Commissioner therefore finds that the public authority has breached section 10(1) by failing to comply with section 1(1)(b) within the statutory time period.

### **Interpretation of the request and response**

#### **Section 1 – general right of access**

11. Section 1 of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request and, if that is the case, to have that information communicated to him.
12. Additionally, under the FOIA a public authority has a duty to read a request for information objectively. If more than one objective reading of a request is possible, a public authority is under a duty to clarify with the requester the scope of their request.
13. The Commissioner has produced guidance which explains what a public authority should consider when interpreting a request, and when it should ask the requester for clarification. In this guidance<sup>1</sup> the Information Commissioner explains:

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<sup>1</sup>[http://www.ico.org.uk/~media/documents/library/Freedom\\_of\\_Information/Practical\\_application/INTERPRETING\\_A\\_REQUEST.ashx](http://www.ico.org.uk/~/media/documents/library/Freedom_of_Information/Practical_application/INTERPRETING_A_REQUEST.ashx)

*"Where the request is ambiguous, the authority will need to seek clarification from the requester in order to ensure that it can comply with the request properly".*

14. Furthermore, the Commissioner is of the opinion that, if a public authority believes that a request could be read in more than one way, or that it does not have an obvious interpretation, it will need to ask the requester for clarification. It is the Commissioner's view that a public authority should always ask for clarification in such circumstances to ensure that it can comply with the request properly.
15. The Information Commissioner now notes the wording of the request. This asks, *"what punishment this officer received"*, clarifying that *"[W]e as the general public have a right to know what is going to happen to this PCSO"*. Albeit late, the public authority advised the complainant that the PCSO had received a reprimand. The Commissioner must therefore consider whether or not this response adequately answers the request or whether the public authority should have sought further clarification or provided any further information that it may hold.
16. Based on an objective reading of the request, the Commissioner considers that an objective reading of the request would require the public authority to specify what, if any, punishment was conferred on the PCSO. He does not accept that the wording of the request requires any further elaboration than this and he thinks such a reading would be expected of any reasonable public authority.
17. The Commissioner therefore concludes that the public authority has responded appropriately to the request.

## Right of appeal

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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,  
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)

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 .....**

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