

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 June 2014

Public Authority: Commissioner of the Metropolitan Police Service

Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant has requested information about legal costs for dealing with his own case. The Metropolitan Police Service (the "MPS") neither confirmed nor denied holding the information by virtue of section 40(5) (personal information). The Commissioner's decision is that the complainant has requested his own personal data and the MPS was therefore correct. He does not require any steps.

Request and response

2. On 28 August 2013, the complainant wrote to the MPS and requested information in the following terms:

"To Whom It May Concern I, [name removed], hereby request the details of expenditure of the Metropolitan Police Directorate of Legal Services in the engagement of Clyde & Co Solicitors ([name removed], Manchester Chambers) regarding the Metropolitan Police Service's offenses [sic] against my person and property.

Please understand this request is a request for information, pertaining both to my ([name removed]) personal case, as well as in that the legal costs are at the expense of the public purse, thus also perhaps a matter of public interest. A simple spreadsheet

detailing the costs to date would suffice, in that the matter has not yet reached the courts”.

3. The MPS acknowledged the request on 3 September 2013. On 7 November 2013, they wrote again, and would neither confirm nor deny holding the requested information by virtue of section 40(5). They advised the complainant of his rights to request his own personal data under the terms of the Data Protection Act 1998 (the “DPA”).
4. The complainant asked for an internal review, stating that the requested information related to expenditure so was not personal data.
5. Following an internal review the MPS wrote to the complainant on 20 January 2013. It maintained its position.

Scope of the case

6. The complainant contacted the Commissioner on 18 February 2014 to complain about the way his request for information had been handled, specifically the non-provision of the requested information. He provided some background information which included the statement:

“... the current request being considered is for expenditure data, for the legal fees which the MPS is incurring with a law-firm in order to offer me compensation for my smartphone (PDA).”

7. The Commissioner will consider whether or not the MPS was entitled to rely on section 40(5).

Reasons for decision

Section 40 – personal information

8. Section 40(1) of the FOIA provides that:

“Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject”.

9. Section 40(5) of the FOIA provides that:

*“The duty to confirm or deny –
(a) does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1)”.*

10. According to the Commissioners' guidance¹:

"If someone requests their own personal data, there is an exemption from the duty to confirm or deny under FOIA, but the public authority should deal with the request as a subject access request under the Data Protection Act (DPA)."

11. The Commissioner here notes the wording of the complainant's request and complaint, as cited above, which include the phrases:

"... offenses [sic] against my person and property..."

"... request for information, pertaining both to my ([name removed]) personal case, as well as in that the legal costs are at the expense of the public purse..."

"... the legal fees which the MPS is incurring with a law-firm in order to offer me compensation..."

12. The Commissioner takes this as the complainant's acknowledgement that the focus of his information request is in fact any costs which may exist in respect of his own personal case. Whilst the complainant may be of the view that he is only asking for financial information, it is clear to the Commissioner that the starting point in ascertaining whether or not any information is held is necessarily the complainant's own name and case. The request is not just for any costs which the MPS may have incurred in general with the named solicitor firm; rather, it is the specific costs in relation to the complainant's own personal case.

13. The Commissioner is of the opinion that any information requested, if held, would be the personal data of the complainant as it relates specifically to him. All information would accordingly be exempt from disclosure under section 40(1) and therefore, under section 40(5)(a) of the FOIA, the public authority is not required to confirm or deny that it is held under the terms of the FOIA since to do so would itself disclose personal data of the complainant.

Other matters

¹http://ico.org.uk/~media/documents/library/Freedom_of_Information/Data_iled_specialist_guides/neither_confirm_nor_deny_in_relation_to_personal_data_and_regulation_foi_eir.pdf

14. As already advised by the MPS, the complainant is entitled to request his personal data under the subject access provisions of the DPA. Further information can be found on the Commissioner's website².
15. It may also be useful to note that, under the terms of the DPA, there is no access to the First-tier Tribunal; redress would be through court action³.

² http://ico.org.uk/for_the_public

³http://ico.org.uk/~media/documents/library/Data_Protection/Practical_application/TAKING_A_CASE_TO_COURT.ashx

Right of appeal

16. 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: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. 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.
18. 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
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