

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

### **Decision notice**

**Date:** 17 February 2015

**Public Authority:** Chief Constable of Hampshire Constabulary  
**Address:** West Hill  
Romsey Road  
Winchester  
Hampshire  
SO22 5DB

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

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1. The complainant requested speed camera policies, procedures and standards with which Hampshire Constabulary complies. Hampshire Constabulary disclosed some information, but the complainant did not accept that this was all the relevant information that the Constabulary held.
2. The Commissioner's decision is that Hampshire Constabulary breached section 1(1)(a) of the FOIA as further information has come to light that was not taken into account by the Constabulary previously. Hampshire Constabulary is now required to issue a fresh response to the complainant's request.
3. The Commissioner requires Hampshire Constabulary to take the following steps to ensure compliance with the legislation.
  - Issue a fresh response to the complainant that covers the two documents referred to below at paragraph 20. This information should either be disclosed, or the complainant given a written explanation of under which provision of the FOIA this information is being withheld.
4. Hampshire Constabulary must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court

pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

## **Request and response**

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5. On 6 April 2014 the complainant wrote to Hampshire Constabulary and requested information in the following terms:  
  
*"...please send me full details of any relevant [speed camera] policies, procedures and standards that you comply with..."*
6. Hampshire Constabulary responded on 29 April 2014. It indicated that it held one document falling within the scope of the request, which was disclosed to the complainant.
7. An exchange of correspondence followed in which the complainant questioned the response to his request and, in particular, the reading of his request by Hampshire Constabulary. After several items of correspondence had been exchanged between it and the complainant, Hampshire Constabulary instigated an internal review.
8. It responded with the outcome of the review on 13 June 2014. The conclusion of this was that one further document within the scope of his request was identified and disclosed to the complainant.

## **Scope of the case**

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9. The complainant contacted the Commissioner initially on 19 August 2014 to complain about the way his request for information had been handled. An exchange of correspondence followed in which background documentation was sought from the complainant and clarification was provided on issues that it would be possible for the Commissioner to consider as part of this case.
10. In particular, as part of his complaint the complainant alleged that one of the documents disclosed to him had been created by Hampshire Constabulary in response to his request. The complainant had earlier raised that point with Hampshire Constabulary, which denied this allegation. No evidence was provided to the Commissioner that contradicted Hampshire Constabulary and it was made clear to the complainant that this allegation would not be investigated.
11. The complainant confirmed that he wished the Commissioner to consider whether Hampshire Constabulary had identified all information it held that fell within the scope of his request. The analysis below therefore

concerns whether Hampshire Constabulary complied fully with its obligation to confirm or deny whether it held the requested information.

## Reasons for decision

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### Section 1

12. Section 1(1)(a) of the FOIA provides that a public authority is obliged upon receipt of an information request to confirm or deny whether it holds the information requested. In order to comply with this obligation, it is necessary for a public authority to establish accurately what information it holds that is within the scope of the request.
13. In this case the complainant believes that Hampshire Constabulary failed to accurately identify all the relevant information it held and has asked the Commissioner to make a decision on this point. The approach of the Commissioner in cases where there is a dispute between requester and public authority on whether more information is held is to make a decision based on the balance of probabilities. This analysis therefore considers whether, on the balance of probabilities, Hampshire Constabulary identified all information it held at the time of the request that fell within the scope of the complainant's information request.
14. The first point that it is necessary to address here is what the scope of the complainant's information request was intended to cover, which was an issue of discussion between the complainant and Hampshire Constabulary. Where the wording of a request means that the scope of it is open to interpretation, the Commissioner will consider what an objective reading of the request would be.
15. The context of the complainant's request was that he was in communication with Hampshire Constabulary about an alleged speeding offence detected by a speed camera. The letter to which the complainant was responding when he made his information request concerned the alleged speeding offence and prompted the information request by referring to "*policies and procedures*".
16. In this context the Commissioner believes that an objective reading of the request is that it was for all policies, procedures and standards concerning the use of speed cameras. The Commissioner has considered whether Hampshire Constabulary identified all information it held that fell within the scope of this reading of the request.
17. When forming a conclusion in this type of case, the Commissioner will take into account the description provided by the public authority about the searches it carried out for information falling within the scope of the

request, as well as any reasoning provided by the public authority as to why it should not be expected to hold any further information.

18. In this case, whilst Hampshire Constabulary provided a very brief description of the searches it carried out, it relied mainly on reasoning as to why it should not be expected that it would hold any further information. This reasoning was that "*management within the Summary Justice Unit and Safer Roads Unit are aware of the relevant policies, procedures and standards they comply with*". The Commissioner does not accept this reasoning as a sufficient basis to conclude on the balance of probabilities that no further information was held, for the following reasons.
19. First, whilst Hampshire Constabulary has asserted that the management of the relevant units were aware of the information held within scope , the Commissioner notes that a further document was identified at internal review. This suggests that there was some uncertainty initially within Hampshire Constabulary as to what relevant information was held.
20. Secondly, on 1 July 2014 the complainant asked Hampshire Constabulary whether it complied with the following guidance documents.
  - LTI 20.20 Ultralyte 1000 Operations Manual published by Tele-Traffic UK.
  - Guidance for the Operational use of Speed and Red-light Offence Detection Technology published by Association of Chief Police Officers.

Hampshire Constabulary responded on 3 July 2014 and stated that it did follow these documents.

21. Given that it appeared that these documents would be within the scope of the request, they were raised with Hampshire Constabulary by the Commissioner. Its response was that whilst it did hold copies of these documents, as they were guidance documents it did not believe that they fell within the scope of the request for "*policies, procedures and standards*".
22. The Commissioner does not agree; his view is that these guidance documents do fall within an objective reading of the complainant's request. As Hampshire Constabulary confirmed that it held these documents, but did not identify these as within the scope of the complainant's request, the finding of the Commissioner is that Hampshire Constabulary did not establish accurately what information it held that fell within the scope of the complainant's request.

23. For these reasons, the conclusion of the Commissioner is that Hampshire Constabulary breached section 1(1)(a) of the FOIA in its handling of the complainant's information request. At paragraph 3, Hampshire Constabulary is now required to issue a fresh response to this request covering the two documents mentioned above.

### **Other matters**

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24. The step above requires Hampshire Constabulary to issue a fresh response to the request that covers the two further documents that the Commissioner has found were within the scope of the complainant's request. As a matter of good practice when complying with that step Hampshire Constabulary should take whatever action is necessary to ensure that it has identified thoroughly *all* information it holds that is within the scope of the complainant's request.

## Right of appeal

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25. 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: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

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

26. 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.
27. 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**