

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 October 2015

Public Authority: Chief Constable of Cambridgeshire Constabulary
Address: Constabulary Headquarters
Hinchingsbrooke Park
Huntingdon
PE29 6NP

Decision (including any steps ordered)

1. The complainant has requested information about a Speedwatch Coordinator and other Speedwatch-related matters from Cambridgeshire Constabulary (the 'Constabulary'). The Constabulary provided some information, withheld some by virtue of section 40(2) (personal information) and advised that further information was not held. The Commissioner is satisfied that, where cited, section 40(2) is properly engaged. He is also satisfied that, on the balance of probabilities, where claimed no further information is held. No steps are required.

Background

2. The request can be followed on the "What do they know?" website¹.

Request and response

3. On 23 April 2015, the complainant wrote to the Constabulary and requested information in the following terms:

¹https://www.whatdotheyknow.com/request/psv_expenses_force_speedwatch_co?nocache=incoming-670816#incoming-670816

"Q1. For the Year 2014 and the end of the 1st Quarter of 2015, please provide, for public analysis and accountability, a collated pdf file of (name-redacted) copies of all individual claims for expenses submitted by the PSV [Police Service Volunteer] Force Speedwatch Coordinator.

Q2. If justifiably not able to satisfy the request at 1 (above), please provide totals for the same periods for all such claims for:

- a. Mileage (Fuel).*
- b. Travel & Subsistence (Journey time and meals, any accommodation charges).*
- c. IT (Computer, Line rental etc)*
- d. Any Other Reasons (please classify and group if possible)*

Q3. From which lowest-level Constabulary Department's Budget were these expenses allocated/paid?

Q4. Apart from disestablishing the post, what measures are being considered to reduce this cost to the taxpayer of this post in the even worse austere times ahead?

Q5. With those at (4) in mind, what are the forecast expenses for the Force Speedwatch PSV for 2015/16.

Q6. In the balance sheet of Expenses vs Income, what savings has the Constabulary made or believe it has made and in what areas by using the PSV recruited in May 14 as the Force Speedwatch Coordinator.

Q7. SIX new PSVs have just been recruited (Apr 15) as District Speedwatch Coordinators. What is the forecast cost to the Police (public) budget for these PSVs for:

- a. Training (all aspects).*
- b. Expenses (headings as at Q2)*

Q8. What savings is the Constabulary planning to make by recruiting 6x PSVs as District Coordinators for FY 15/16 rather than by using suitable, experienced existing public volunteers (some of them leading business people) who would provide their services totally free of charge (not even asking for expenses as they have done willingly for the last 6 years)".

4. The Constabulary responded on 22 May 2015. It provided some information, said that some was not held stated and found that some was exempt from disclosure by virtue of section 40(2) (personal information).

5. The complainant requested an internal review of parts 1 and 4 to 8. Following an internal review the Constabulary wrote to the complainant on 26 June 2015. It maintained its position and advised that it may treat further requests as 'vexatious'.

Scope of the case

6. The complainant contacted the Commissioner on 29 June 2015. His complaint centred on his request being 'vexatious', which has not been cited by the Constabulary. The Commissioner therefore sought clarification from the complainant and it was agreed that he would consider the citing of section 40(2) in relation to part (1) of his request and whether any information is held in respect of parts (4) to (8).

Reasons for decision

Section 40 – personal information

7. This exemption has been applied to the individual expense claims made by the Constabulary's Speedwatch Coordinator, ie part (1) of the request. Overall amounts claimed, and the categories these fall into (as specified at part (2) of the request), were provided. It is the actual claims themselves which have been withheld.
8. Section 40(2) of FOIA provides an exemption from disclosure for information which is the personal data of a third party and where disclosure would breach any of the data protection principles.
9. In order to rely on section 40(2) the requested information must constitute personal data as defined by the DPA. Section 1 of the DPA defines personal data as:

" ... data which relate to a living individual who can be identified

a) from these data, or

b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller,

and includes any expression of opinion about the individual and any indication of the intention of the data controller or any other person in respect of the individual."

Is the information personal data?

10. The first question for the Commissioner to consider is whether the requested information is personal data as defined in section 1 of the DPA.
11. The requested information relates to the expenses of a specific member of staff. Although the Commissioner notes that the name has been removed from the request by some party, the Commissioner is nevertheless satisfied that there is only one person this part of the request can relate to and it therefore constitutes his personal data. Furthermore, it is apparent that the complainant himself knows the identity of that party as the wording of the request indicates that the name was originally included. The Constabulary has also advised the Commissioner that the Coordinator is known to the complainant.

Would disclosure breach any of the data protection principles?

12. The first protection principle deals with the privacy rights of individuals and the balance between those rights and other legitimate interests in processing personal data. It states that:

*"Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless –
(a) at least one of the conditions in Schedule 2 is met".*

13. In the case of an FOI request, the personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed if to do so would be fair, lawful and meet one of the DPA Schedule 2 conditions. If disclosure would fail to satisfy any one of these criteria, then the information is exempt from disclosure.

Would it be fair to disclose the requested information?

14. When considering the fairness element of the first data protection principle, the Commissioner takes into account a number of factors depending on the circumstances of each case. In this case, he considered:
 - the reasonable expectations of the data subjects and the nature of the information;
 - the consequences of disclosure; and
 - any legitimate interests in the public having access to the information.

Reasonable expectations of the data subjects

15. The Commissioner acknowledges that there will be circumstances where, for example, due to the nature of the information and/or the consequences of it being disclosed, an individual will have a strong expectation that the information will not be disclosed.
16. The Constabulary has advised that the Coordinator would not his expense claims to be released into the public domain. It advised the Commissioner as follows:

"This request concerns personal information of a voluntary member of staff. He is not an executive staff member or senior officer and would not expect the constabulary to disclose information concerning his expenses claims to be published, broken down to an individual claim level.

In his request for an Internal Review, [the complainant] referred to expenses published by IPSA on its website – to meet its obligations for transparency of MPs expenses. This request is dealing with the expenses claims of a voluntary member of staff not one who holds an executive or senior position within the constabulary. A volunteer would have a different expectation of how his personal information is dealt with".

17. Taking into account that the amount of the expenses has been disclosed to ensure transparency, and that the Coordinator is a volunteer rather than a high profile public figure such as an MP, the Commissioner considers that the Coordinator would have a reasonable expectation that copies of his actual expenses would not be put into the public domain. Such disclosure would be unnecessarily intrusive.

Consequence of disclosure

18. When considering the consequences of disclosure in this case, the Commissioner has taken into account the nature of the withheld information. He has also considered the fact that disclosure under FOIA is to the world at large and not just to the complainant.
19. The Constabulary has argued as follows:

"The information requested is a full breakdown of all of the expenses claims made by an individual volunteer member of staff. This information will include his home address, private vehicle details, location of garages used to purchase fuel and show a pattern or routine involved in purchasing fuel. By disclosing this broken down information a person may be able to cause

harassment to the coordinator. In this particular case the applicant and others have demonstrated a campaign to discredit the individual (coordinator) and the constabulary”.

20. Given the nature of the information and the reasonable expectations of the Coordinator the Commissioner is satisfied that disclosure of the withheld information could cause him unnecessary and unjustified distress.

Any legitimate interests in the public having access to the information

21. The Commissioner considers that disclosure of information could help promote transparency and accountability. However, the full value of the expenses, and the category of expense they fall under, has been provided, so the individual claims themselves will add little to this. If there is any suggestion that the claims are unwarranted then such suspicions should be raised directly with the Constabulary itself.

Balancing the rights and freedoms of the data subject with legitimate interests

22. The Commissioner accepts that there is a wider public interest in transparency when it comes to expenses being properly paid and that they should be subject to a level of scrutiny. However, in this case, the amounts claimed have been disclosed and the Commissioner is of the view that disclosure of the individual claims themselves, submitted by a volunteer rather than a high ranking member of staff, would be unnecessarily intrusive.
23. The Commissioner notes that the complainant is of the view that the claims themselves are excessive. However, the Commissioner would expect any claims to be checked internally and any suspicions regarding their veracity can be raised through appropriate channels with the Constabulary if necessary.
24. The Commissioner is satisfied that disclosure would be unfair to the Coordinator in the particular circumstances of this case. However, notwithstanding individuals' expectations of privacy or any harm that could be caused by disclosure, there may be occasions when it is still fair to disclose personal data if there is a public interest in disclosure. However, in this case the Commissioner has not found any compelling reasons which would justify infringing the privacy rights of the individual concerned. He therefore concludes that the exemption at 40(2) is properly engaged.

Section 1 – general right of access

25. The Commissioner will now consider the parts (4) to (8) of the request.
26. Section 1 of the FOIA states that anyone making a request for information to a public authority is entitled to be informed whether the public authority holds the information, and if so, to have that information communicated to them.
27. The Commissioner is mindful that when he receives a complaint alleging that a public authority has stated incorrectly that it does not hold the requested information, it is seldom possible to prove with absolute certainty whether the requested information is held. In such cases, the Commissioner will apply the normal civil standard of proof in determining the case and will decide on the 'balance of probabilities' whether information is held.
28. Therefore, the Commissioner has sought to determine whether, on the balance of probabilities, the Constabulary holds any recorded information within the scope of the request. Accordingly he asked the Constabulary to explain what enquiries it had made in order to reach this position. In response to these enquiries he was provided with the following.
29. The Chief Inspector in charge of the Speed Watch Scheme was consulted about the matters as was the Coordinator. The Commissioner is satisfied that these parties would be the relevant ones to consider whether or not any information was held in respect of these parts of the request.
30. The Chief Inspector has advised that the Constabulary has not considered 'disestablishing' the post so no information is held in respect of part (4) and that forecasts of the type mentioned at part (5) are not undertaken. In respect of part (6) the Chief Inspector has advised that they do not record the cost benefits of their volunteers, rather the role is just about making financial savings.
31. In respect of parts (7) and (8) the Chief Inspector advised that 3 new volunteers had been recruited but that no costings had been undertaken as nothing other than incidental expenses can be paid to them.
32. The Constabulary added:

"Neither [the Coordinator], Chief Inspector [name removed] or the Constabulary had any business need or cause to carry out any costings or record information relevant to the recruitment of further

PSV Speed Watch Coordinators, prior to [the complainant]'s request. As such no information is / was held by the Constabulary.

Any information, if held, would have been available to [the Coordinator] as the Force single point of contact for Community Speed Watch matters or by Chief Inspector [name removed] as the officer overseeing the scheme. They have confirmed that there was nothing held either manually or electronically with regard to the recruitment of further PSV Speed Watch Coordinators.

They have also confirmed that there had been no information relevant to this request, that had been deleted at any time".

33. It further explained to the Commissioner:

"[The Coordinator] is the dedicated single point of contact for the Community Speed Watch Schemes, this is a very small area of business within the constabulary and I am satisfied that if there was anything held relevant to the request by [the complainant], then [the Coordinator] would be aware and able to access it".

34. Based on the information provided by the Constabulary the Commissioner is satisfied that, on the balance of probabilities, no recorded information within the scope of parts (4) to (8) of the request is held. He is therefore satisfied that the Constabulary has complied with the requirements of section 1 of the FOIA in this case.

Right of appeal

35. 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

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

36. 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.
37. 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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