

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 November 2015

Public Authority: Chief Constable of Surrey
Address: Surrey Police Headquarters
PO Box 101
Guildford Surrey
GU1 9PE

Decision (including any steps ordered)

1. The complainant requested from Surrey Police (the police) information about the movements of a police helicopter which had searched for a missing person over an area including that in which the complainant lives. The police provided him with information about that flight but the complainant was not satisfied that there had not been a further reason for the search by the helicopter beyond that stated by the police.
2. The Commissioner's decision is that, on a balance of probabilities, the police are correct to say that they do not hold information about any other reason for the helicopter search. He therefore did not uphold the complaint.
3. The Commissioner does not require the police to take any further steps.

Request and response

4. On 10 August 2015, the complainant wrote to the police and requested information about a flight by a National Police Air Service helicopter at an identified time in the following terms:

I want to know why my home was at the centre of the helicopter's circle. I do not believe the official explanation. Looking for a missing person called [name] is a good cover for the main reason, to search elsewhere, but there is no 'open ground' around my place.

5. The police provided some information in correspondence and at a meeting with the complainant; this included information following an internal review the outcome of which the complainant received on 29 September 2015.

Scope of the case

6. The complainant contacted the Commissioner on 29 September 2015 to complain about the way his request for information had been handled. He said by way of context that he believed he was under surveillance by certain government agencies arising from his oral and written support for some named environmental activist groups.
7. He maintained that the relevant helicopter flight had a further purpose beyond the stated purpose of searching open ground for a missing person and wanted the police to disclose information about that purpose. The complainant provided further representations to the Commissioner on 26 October 2015 with what he regarded as further evidence of surveillance activity by the police air service.
8. In his investigation of the matter, the Commissioner's staff examined the police action log of the incident which included information taken from the log of the relevant helicopter flight. He also noted the correspondence between the complainant and the police, including that with the Chief Constable's office, and took account of representations from the complainant and the police.

Reasons for decision

Section 1 – general right of access

9. Section 1(1) of the FOIA states that:
"Any person making a request for information to a public authority is entitled: –
(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
(b) if that is the case, to have that information communicated to him."
10. When investigating section 1 FOIA matters, the Commissioner considers the scope, quality, thoroughness and results of searches for the requested information and any other explanations offered as to why the information requested is said not to be held. In these matters, it is seldom possible to prove with certainty whether or not the requested information is held. In such cases the Commissioner has to decide the matter using the civil standard of the balance of probabilities.

11. The complainant said that, in his view, there was no 'open ground' around his home and that this called into question part of the police version of events which said that the helicopter was surveying open ground.
12. The Commissioner's staff noted, from an examination of relevant maps and satellite images, the existence of what appeared to be some open ground and also a railway line close to the complainant's house. The complainant accepted that there was what he described as a well-kept playing field not far from his house and that there was a railway line close by. However he said that the need to check those places could not explain the manoeuvres that he had observed the helicopter carrying out. He added that it did not surprise him that the police had no record of why the helicopter was flying so many circles. He said that, in his view, any relevant instructions for these had either not been written down or had been removed.
13. The complainant did accept that the police had been searching for a missing person, but considered that, whilst they were in the vicinity they had taken the opportunity to carry out some covert surveillance.
14. The police told the Commissioner that their records for the helicopter, and its air movements that day, confirmed that it had been searching the area for a missing person who had subsequently been found. The police added that, by coincidence, the complainant's house had been one of several houses at the centre of the area of search. The police also provided him with a details of a Twitter account with further details of the movements of the helicopter.
15. In his investigation, the Commissioner found nothing to suggest that the police had withheld any information from the complainant about the relevant movements of the police helicopter. The Commissioner invited the complainant to present further evidence on the point if he so wished but he has not done so.
16. In reaching his decision, the Commissioner has seen no evidence to call into question the police account of events. In the absence of contrary evidence, he therefore accepted, on a balance of probabilities, that the information provided by the police was accurate and complete.
17. Based on the information and assurances provided by the police, the representations from the complainant, and his own analysis, the Commissioner is satisfied, on the balance of probabilities, that no undisclosed information is held which falls within the scope of the request. He therefore decided that the police have complied with the requirements of section 1 FOIA in this matter.

Other matters

18. The Commissioner noted that the police have provided the complainant with some advice and guidance on making relevant subject access requests to public authorities of interest to him to ask them if they hold personal information about him.

Right of appeal

19. 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

20. 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.
21. 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