

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 October 2016

Public Authority: Chief Constable West Mercia Police
Address: PO Box 55
Hindlip
Worcester
WR3 8SP

Decision (including any steps ordered)

1. The complainant requested information relating to the handling of previous information requests by West Mercia Police. West Mercia Police disclosed some information and stated that some of the requested information was not held. It asked for clarification in relation to part of the request which it did not respond to as the complainant did not provide the clarification sought.
2. The Commissioner's decision is that West Mercia Police has breached sections 1(1) and 10(1) of the FOIA by failing to progress part of the request as the Commissioner's view is that it did not reasonably require the clarification sought in order to identify and locate the information requested. It is now required to respond afresh to that part of the request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - issue a fresh response to point (4) of the request.
4. The public authority 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 13 April 2016 the complainant wrote to West Mercia Police and requested information in the following terms:

"(1) Please could you confirm how many FOI requests received by West Mercia Police during the past three months have not had a response.

(2) How many of the requests were from the same requester.

(3) Please give the reason for each FOI that you have chosen to ignore and/or have not responded to.

(4) Please provide copies of all internal information, emails, notes, minutes, memos in relation to those requests which West Mercia Police have ignored and/or have not responded."

6. West Mercia Police responded on 14 April 2016. In response to point (1) of the request it disclosed the number of requests open at that time. In response to point (3) of the request it stated that the reason these requests had not been responded to was that they were "*current requests and are in progress*" and also stated that no information was held relating to requests that had been ignored. In response to point (4) of the request, the complainant was asked to advise why this information had been requested and what it was to be used for. No response was provided to point (2) of the request.
7. An exchange of correspondence between the complainant and West Mercia Police followed which led to an internal review being carried out. West Mercia Police responded with the outcome of the review on 11 May 2016, which upheld the previous response to the request.

Scope of the case

8. The complainant contacted the Commissioner on 16 May 2016 to complain about the way her request for information had been handled.
9. During the course of the Commissioner's investigation, West Mercia Police responded to the complainant regarding point (2) of the request.
10. The scope of this notice covers whether it was reasonable for West Mercia Police to seek the clarification asked for in relation to point (4) of the request.

11. West Mercia Police and Warwickshire Police have a shared team responsible for processing information requests made to either force. This arrangement does not alter that these two forces are separate public authorities for the purposes of the FOIA. When making her request the complainant was specific that she was seeking information from West Mercia Police and she also specified West Mercia Police when contacting the ICO. This case has therefore been progressed on the basis that it concerns that force.

Reasons for decision

12. The request in this case is identical to a request for information made by the same complainant to Warwickshire Police which the Commissioner has previously considered. The decision notice in that case (FS50629500) was issued on 22 August 2016¹.
13. Having considered all the factors applicable to this case, the Commissioner is satisfied that the similarity between this case and FS50629500 is such that she is able to reach the same decision about West Mercia's handling of point (4) of the request without the need for further analysis.
14. The Commissioner's view is that this part of the complainant's request was not ambiguous or unclear and so it was not appropriate for West Mercia Police to seek to understand why the complainant had made that request. In refusing to comply with section 1(1) of the FOIA until the complainant had responded with clarification that the Commissioner does not agree it reasonably required in order to identify and locate the requested information, West Mercia Police breached the requirements of sections 1(1) and 10(1) of the FOIA.

Other matters

15. FOIA provides a general right of access to information held by public authorities. If there is a complaint to the ICO, the Commissioner will

¹ <https://ico.org.uk/media/action-weve-taken/decision-notice/2016/1624884/fs50629500.pdf>

make her decision based on whether recorded information is held and has been provided.

16. The Commissioner considers that the correspondence between the parties on the '*whatdotheyknow*' website relating to this request has been complex to follow.
17. The Commissioner accepts that it is for public authorities to determine how they organise themselves administratively. However, the Commissioner considers that this has contributed to the confused correspondence in this case and expects that West Mercia Police will have due regard to this in its future handling of requests.

Right of appeal

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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

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