

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 21 March 2017

**Public Authority:** Police and Crime Commissioner for Northumbria  
**Address:** 2nd Floor Victory House  
Balliol Business Park  
Benton Lane  
Newcastle upon Tyne  
NE12 8EW

### Decision (including any steps ordered)

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1. The complainant has requested information about the Independent Police Complaints Scrutiny Panel set up by the Police and Crime Commissioner for Northumbria ("the PCC"). The PCC disclosed a small amount of information in response to the request and said that it did not hold anything further.
2. The Commissioner's decision is that, on the balance of probabilities, the PCC has disclosed to the complainant all the information it holds which falls within the scope of the request.
3. The Commissioner does not require the PCC to take any steps.

## Background

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4. The PCC website<sup>1</sup> sets out the role of the Independent Police Complaints Scrutiny Panel as follows:

*"The Commissioner has appointed an Independent Police Complaints Scrutiny Panel made up of members of the public who will undertake a scrutiny role under the guidance of the OPCC into how Northumbria Police deal with complaints. Following an advertisement for public involvement, she received 16 applications to be a Member of the Scrutiny Panel and seven were subsequently appointed to the Panel.*

*The panel work together to scrutinise varied aspects of policing from an objective point of view. It reviews 'dip sampled' completed police complaints files and raise [sic] issues relating to complaints handling e.g. appropriate resolutions, timeliness of response, etc. It will ensure all paperwork is complete to a high standard and feedback to the Commissioner to ensure wider issues can be included in her priorities.*

*The panel will also highlight where policing is working consistently well so the appropriate acknowledgement can be communicated and areas of good practice highlighted so that their findings can be rolled out into other areas.*

*The seven Members of the Scrutiny Panel, who were subject to the usual police vetting procedures, have received the appropriate training and commenced the work of the Panel in October 2013."*

## Request and response

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5. On 20 January 2017, the complainant wrote to the PCC via the public 'WhatDoTheyKnow' website<sup>2</sup> and requested the following information about the PCC's Independent Police Complaints Scrutiny Panel:

*"I would like the following information;*

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<sup>1</sup> <http://www.northumbria-pcc.gov.uk/volunteers/scrutiny-panel-members/>

<sup>2</sup> <https://www.whatdotheyknow.com/>

- 1. Details of all guidance, rules or policies that Independent Scrutiny Panel members have to follow.*
- 2. What has the Independent Scrutiny Panel done during the past 12 months?*
- 3. How much has each of the Scrutiny Panel members been paid during the past 12 months? I would like this information to be broken down and to show every amount paid to each panel member. I don't require personal information, i.e. I will accept, Panel member 1 was paid £? for a, b, c, d etc, Panel member 5 was paid £? for a, b, c, d etc, Panel member 7 was paid £? for a, b, c, d etc*
- 4. Was any of the panel members (or any of their families) known to the Commissioner and or to any of her staff before they were selected as panel members. If so, please supply full details*
- 5. Have any of the panel members ever been invited to any Northumbria Police events, work functions parties etc. If they have, please supply full details."*
6. The PCC responded on 2 February 2017. In response to the first part of the request it disclosed a person specification for panel membership and a blank case review form, which panel members complete when reviewing a police complaint. It stated that it did not hold any information which was relevant to the remaining questions.
7. The PCC provided an internal review on 23 February 2017, in which it maintained the position set out in its previous letter.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 25 February 2017 to complain about the way his request for information had been handled. He disputed the PCC's assertion that it did not hold any further information in respect of his request.
9. The Commissioner has considered in this decision notice the PCC's assertion that it did not hold any further information.

## Reasons for decision

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### Section 1 - extent of information held

10. Section 1 of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds that information and, if so, to have that information communicated to him.
11. The complainant is concerned that the PCC may not have identified all the recorded information it holds which is relevant to the request. In cases where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner – following the lead of a number of First-tier Tribunal decisions – applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is likely, or unlikely, that the public authority holds information relevant to the complainant's request.
12. The Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the public authority to check whether the information was held and any other reasons offered by the public authority to explain why the information was not held. She will also consider any reason why it is inherently likely or unlikely that information was not held. For clarity, the Commissioner is not expected to prove categorically whether the information was held, she is only required to make a judgement on whether the information was held on the civil standard of the balance of probabilities.

#### *The complainant's position*

13. In view of the advertised duties and the fact that work done by panel members was remunerated, the complainant found it difficult to accept that the PCC held no information other than a person specification and case review form.

#### *The PCC's position*

14. The PCC maintained the position that it had disclosed to the complainant all the information it held which was described in his request. It explained that while panel members had been appointed by the PCC, their training had been provided by Northumbria Police and not the PCC. It was for this reason that it knew it did not hold any of the information requested in part 1 of the request, apart from the case review documents. Nevertheless, it had conducted a search of its files relating to panel membership and found no further information.

15. The PCC noted with regard to parts 2 and 3 of the request, that their scope was limited to work done by the panel in the previous twelve months. The PCC said that the panel had not met within the previous 12 months. Case reviews in that time had been conducted by the PCC's own Commissioner and other senior members of the PCC. The PCC said that the most recent work done by a panel member was completed in October 2015 - this evidence has been viewed as part of this investigation. It was for these reasons that it was satisfied that it did not hold any information falling within the scope of points 2 and 3 of the request.
16. With regard to point 4 of the request, the PCC said that this information, if held, would have been declared on panel members' application forms. It had reviewed these forms and had found no such declarations. It therefore concluded that it held no information falling within the scope of point 4 of the request.
17. The PCC commented that point 5 of the request related specifically to events organised by Northumbria Police. It said that the PCC would hold no information about events organised by Northumbria Police. However, for the avoidance of doubt it had nevertheless conducted a search for relevant information and had been unable to locate any.

### *Conclusion*

18. When, as in this case, the Commissioner receives a complaint that a public authority has not disclosed some or all of the requested information that a complainant believes it holds, it is seldom possible to prove with absolute certainty that it holds no relevant information. However, as set out in paragraphs 11 and 12, above, the Commissioner is required to make a finding on the balance of probabilities.
19. The Commissioner finds the PCC's reasons for believing that it did not hold any further information to be credible and well evidenced. In respect of points 1 and 5, the PCC has demonstrated why relevant information (if, indeed, any exists), would be held by Northumbria Police rather than the PCC. With regard to points 2 and 3, it has shown that the panel did not work during the time period specified by the complainant, and thus why no information is held. And with regard to point 4, it has identified the location where any relevant information might be held, and a search has established that none is.
20. The Commissioner also notes that the PCC did not just rely on its belief that it did not hold further information and that, for the avoidance of doubt, it carried out searches for relevant information in response to each point of the request. These searches did not find any further information.

21. The Commissioner considers that the PCC's response would have benefitted from an explanation of the reasons why no further information was held. Some additional context may have enabled the complainant to better understand its response and a complaint to her might have been avoided.
22. However, the Commissioner is satisfied in this case that the PCC has demonstrated that it has reasonable grounds for considering that the searches it conducted would have revealed all relevant information, and that its belief that it does not hold any further information beyond what has already been disclosed is similarly reasonable.
23. Taking all the above into account the Commissioner is satisfied that that, on the balance of probabilities, the PCC did not hold any further information which fell within the scope of the request.

## Right of appeal

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24. 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: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

25. 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.
26. 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 .....

**Samantha Bracegirdle**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**