Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 August 2019

Public Authority: Hampshire County Council
Address: The Castle
Winchester
Hampshire
SO23 8UJ

Decision (including any steps ordered)

1. The complainant has requested information regarding complaints submitted to the Hampshire Police and Crime Panel.

2. The Commissioner's decision is that Hampshire County Council has appropriately relied upon section 40(2) – personal data, to withhold information in scope of the request. Furthermore she has found, on the balance of probabilities, that the council does not hold further information in scope of the request and it has therefore complied with section 1 – general right of access.

3. The complainant also disputes that the council can legally answer FOIA requests on behalf of the Hampshire Police and Crime Panel. The Commissioner finds that the Panel is not a public authority as defined by section 3(1) of the FOIA; and that the council holds the requested information for its own purposes. She therefore concludes that the council is correct to answer FOIA requests in this regard.

4. The Commissioner does not require any steps.

Request and response

5. On 1 October 2018, the complainant wrote to Hampshire County Council ('the council') and requested information in the following terms:

> *"For each and every complaint submitted to the PCP* [the Hampshire Police and Crime Panel] *for the years 2015, 2016 and 2017 please supply the following information:*
>
> *1) A copy of the original listed complaints submitted to the PCP*
> *2) A copy of the minutes of meeting for each subsequent to decency and sub-committee meeting*
> *3) A copy of the legal reasons for rejection of all the eleven complaints*
> *4) A copy of the response made to every complainant*
> 5) *A copy of the recommendation made to the Chairman of the full PCP for each and every complaint"*

6. The council responded on 12 November 2018. In relation to each question it:

> 1) refused to provide the requested information on the basis of the exception at FOIA section 40(2) – personal data;
> 2) denied holding any information in scope of the request;
> 3) denied holding any information in scope of the request;
> 4) stated 'some' of the requested information is exempt under FOIA section 40(2);
> *5)* denied holding information on the basis that *"…making a report to the Chairman does not form part of the PCP's process. A quarterly report was formally submitted to the full Panel regarding complaints activity, and in July 2018 it was agreed his would be moved to an annual report."*

7. The complainant requested an internal review on 20 November 2018.

8. Following an internal review the council wrote to the complainant on 11 January 2018. It upheld its original position, and provided further explanation of that position.

9. During the Commissioner's investigation, the council found that one item, in scope of 4) had been made public by the individual who raised the complaint. The individual had given their consent for it to be made available by the PCP. The council disclosed the item to the complainant and advised that the exemption, section 40(2), no longer applied to the document.

Scope of the case

10. The complainant contacted the Commissioner on 13 December 2018 to complain about the way his request for information had been handled. Specifically raising whether the council is entitled to rely on section 40(2) as the basis for withholding information in scope of 1) and 4); and if it is correct when it states it does not hold any information in scope of items 2) and 3).

11. Furthermore the complainant disputes whether the council has the authority to respond to FOIA requests on behalf of the PCP. He has raised this concern a number of times with the council, and stated to the Commissioner *"Please direct the chairman of the HPCP* [the Hampshire PCP] *to respond to my RFIs on his headed notepaper, with his signature… I do not regard all previous letters from HCC* [the council] *as either lawful or valid*."

12. The Commissioner considers the scope of this case is to establish whether the council has correctly engaged the exemption at section 40(2) to the withhold information in scope of items 1) and 4). And, whether, on the balance of probabilities, it holds any information in scope of items 2) and 3). With regard to item 4) she will establish whether the council has responded fully to the scope of the request.

13. The Commissioner will also assess whether the council is correct to respond to requests on behalf of the PCP.

Reasons for decision

Section 40 - personal information

14. Section 40(2) of the FOIA provides that information is exempt from disclosure, if it is the personal data of an individual other than the requester, and where one of the conditions listed in section 40(3A)(3B) or 40(4A) is satisfied.

15. In this case the relevant condition is contained in section 40(3A)(a)[1]. This applies where the disclosure of the information to any member of the public would contravene any of the principles relating to the

[1] As amended by Schedule 19 Paragraph 58(3) DPA.

processing of personal data ('the DP principles'), as set out in Article 5 of the General Data Protection Regulation ('GDPR').

16. The first step for the Commissioner is to determine whether the withheld information constitutes personal data as defined by the Data Protection Act 2018 ('DPA'). If it is not personal data then section 40 of the FOIA cannot apply.

17. Secondly, and only if the Commissioner is satisfied that the requested information is personal data, she must establish whether disclosure of that data would breach any of the DP principles.

Is the information personal data?

18. Section 3(2) of the DPA defines personal data as:

> "*any information relating to an identified or identifiable living individual*".

19. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.

20. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

21. Information will relate to a person if it is about them, linked to them, has biographical significance for them, is used to inform decisions affecting them or has them as its main focus.

22. Request item 1) is for the "*original listed complaints submitted to the PCP"*. The council advised that *"the original complaint letters are entirely the personal data of the individual that submitted the letters, or the data subjects that are discussed."* Furthermore it stated that additional parties, such as witnesses, are identified in the complaints.

23. The council stated *"each complaint letter includes names, addresses and other contact details. Many of the complaints include substantial detail and contextual information that could be used to identify individuals, particularly where there has been media attention."* It added that some of the complaints are social media related from which both the complainant and the data subject could be identified even if this information was redacted. It stated that *"Complaints about an individual's conduct in their job role is the complained-about person's personal data, despite it being about their work life."*

24. Request item 4) is for "*a copy of the response made to every complainant."* The council confirmed that "*the response letters sent following the determination of the panel include the contact details of the complainant and a summary of the complaint. These would be classed as the complainant's personal data. Any summary of a complaint about a member of staff would also be the complained about person's personal data."*

25. The council advised that redacting the personal data and the complaint summary for 4) *"will result in a document that only contains information that has already been disclosed to* [the complainant]*."* The council provided the Commissioner with a copy of this previous disclosure.

26. Having reviewed the withheld information, the Commissioner concurs with the arguments put forward by the council regarding the withheld information for items 1) and 4).

27. The Commissioner has also reviewed the information previously provided to the complainant which is named "*Table 1 - PCP Complaints 2015-2017*". The table lists all complaints received by the PCP, showing date received, indication that the complaint was recorded, that the Complaints Sub-Committee met to review the complaint, the action taken and whether the complaint was disapplied. The Commissioner agrees that this is the remaining set of information that would not be categorised as personal data in scope of item 4).

28. In the circumstances of this case, having considered the withheld information, the Commissioner is satisfied that the information relates to: individuals submitting complaints to the PCP; the data subjects of the complaints; and other third parties such as witnesses. She is satisfied that this information both relates to and identifies the individuals concerned. This information therefore falls within the definition of 'personal data' in section 3(2) of the DPA.

29. The fact that information constitutes the personal data of an identifiable living individual does not automatically exclude it from disclosure under the FOIA. The second element of the test is to determine whether disclosure would contravene any of the DP principles.

30. The most relevant DP principle in this case is principle (a).

Would disclosure contravene principle (a)?

31. Article 5(1)(a) of the GDPR states that:

> *"Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject".*

32. In the case of an FOIA 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 lawful, fair and transparent.

33. In order to be lawful, one of the lawful bases listed in Article 6(1) of the GDPR must apply to the processing. It must also be generally lawful.

34. In addition, if the requested data is special category data, in order for disclosure to be lawful and compliant with principle (a), it also requires an Article 9 condition for processing.

35. In addition, if the requested data is criminal offence data, in order for disclosure to be lawful and compliant with principle (a), it must also meet the requirements of Article 10 of the GDPR.

Is the information special category data?

36. Information relating to special category data is given special status in the GDPR.

37. Article 9 of the GDPR defines 'special category' as being personal data which reveals racial, political, religious or philosophical beliefs, or trade union membership, and the genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

38. Having considered the wording of the request, and viewed the withheld information, the Commissioner finds that the requested information does include special category data. She has reached this conclusion on the basis that it includes details of abuse suffered, health conditions, religious beliefs and ethnicity.

39. Special category data is particularly sensitive and therefore warrants special protection. As stated above, it can only be processed, which includes disclosure in response to an information request, if one of the stringent conditions of Article 9 can be met.

40. The Commissioner considers that the only conditions that could be relevant to a disclosure under the FOIA are conditions (a) (explicit consent from the data subject) or (e) (data made manifestly public by the data subject) in Article 9.

41. The council advises that it would not be appropriate to seek consent of the complainants or the data subjects of the complaints. It states that there is an implied condition of confidentiality when an individual raises a formal complaint or when a data subject is being investigated; some of the complaints are many years old and contact details could be out of

date; complainants may have been dissatisfied with the outcome causing a negative response to an approach and some complainants would have been subject to contact restrictions including ongoing legal actions.

42. The council confirmed that, excluding the one item released to the complainant during the investigation, no other information had been made public by the data subjects themselves.

43. The Commissioner has seen no evidence or indication that the individuals concerned have specifically consented to this data being disclosed to the world in response to the FOIA request or that they have deliberately made this data public.

44. As none of the conditions required for processing special category data are satisfied there is no legal basis for its disclosure. Processing this special category data would therefore breach principle (a) and so this information is exempt under section 40(2) of the FOIA.

Is the information criminal offence data?

45. Information relating to criminal convictions and offences is given special status in the GDPR.

46. Article 10 of the GDPR defines 'criminal offence data' as being personal data relating to criminal convictions and offences. Under section 11(2) of the DPA personal data relating to criminal convictions and offences includes personal data relating to:

(a) The alleged commission of offences by the data subject; or

(b) Proceedings for an offence committed or alleged to have been committed by the data subject or the disposal of such proceedings including sentencing.

47. Having considered the wording of the request, and viewed the withheld information, the Commissioner finds that the requested information does include criminal offence data. She has reached this conclusion on the basis that the withheld information includes references to individuals' criminal histories and offence allegations.

48. Criminal offence data is particularly sensitive and therefore warrants special protection. It can only be processed, which includes disclosure in response to an information request, if one of the stringent conditions of Schedule 1, Parts 1 to 3 of the DPA can be met.

49. The Commissioner considers that the only Schedule 1 conditions that could be relevant to a disclosure under the FOIA are the conditions at

Part 3 paragraph 29 (consent from the data subject) or Part 3 paragraph 32 (data made manifestly public by the data subject).

50. The Commissioner has seen no evidence or indication that the individuals concerned have specifically consented to this data being disclosed to the world in response to the FOIA request or that they have deliberately made this data public.

51. As none of the conditions required for processing criminal offence data are satisfied there is no legal basis for its disclosure. Processing this criminal offence data would therefore breach principle (a) and so this information is exempt under section 40(2) of the FOIA.

52. The Commissioner has gone on to consider whether there is an Article 6 basis for processing the remaining withheld information.

Lawful processing: Article 6(1)(f) of the GDPR

53. Article 6(1) of the GDPR specifies the requirements for lawful processing by providing that "*processing shall be lawful only if and to the extent that at least one of the*" lawful bases for processing listed in the Article applies.

54. The Commissioner considers that the lawful basis most applicable is basis 6(1)(f) which states:

55. "*processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child*"[2].

[2] Article 6(1) goes on to state that:-

> "*Point (f) of the first subparagraph shall not apply to processing carried out by public authorities in the performance of their tasks*".

However, section 40(8) FOIA (as amended by Schedule 19 Paragraph 58(8) DPA) provides that:-

> "*In determining for the purposes of this section whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (dis-applying the legitimate interests gateway in relation to public authorities) were omitted*".

56. In considering the application of Article 6(1)(f) of the GDPR in the context of a request for information under the FOIA, it is necessary to consider the following three-part test:-

    i) **Legitimate interest test:** Whether a legitimate interest is being pursued in the request for information;

    ii) **Necessity test:** Whether disclosure of the information is necessary to meet the legitimate interest in question;

    iii) **Balancing test:** Whether the above interests override the legitimate interest(s) or fundamental rights and freedoms of the data subject.

57. The Commissioner considers that the test of 'necessity' under stage (ii) must be met before the balancing test under stage (iii) is applied.

Legitimate interests

58. In considering any legitimate interest(s) in the disclosure of the requested information under the FOIA, the Commissioner recognises that such interest(s) can include broad general principles of accountability and transparency for their own sakes, as well as case-specific interests.

59. Further, a wide range of interests may be legitimate interests. They can be the requester's own interests or the interests of third parties, and commercial interests as well as wider societal benefits. They may be compelling or trivial, but trivial interests may be more easily overridden in the balancing test.

60. The council states that it only finds a legitimate interest in the disclosure of general information about complaints, which has already been provided. It states that the *"Office of the Police and Crime Commissioner is a publicly funded organisation and needs to be transparent in the expenditure of public funds, but this does not legitimise the disclosure of personal data."*

61. The complainant states that the eleven complaints submitted to the PCP, (as identified in the council's previous disclosure *Table 1 - PCP Complaints 2015-2017*), were all dismissed by the PCP Sub-Committee, and not the PCP; that all the complaints were rejected and that the previous disclosure does not supply details of the complaints nor any explanation for their rejection.

62. The Commissioner therefore reasons that the complainant's legitimate interest is in the transparency of the complaints submitted and the PCP's subsequent outcome decisions.

Is disclosure necessary?

63. 'Necessary' means more than desirable but less than indispensable or absolute necessity. Accordingly, the test is one of reasonable necessity and involves consideration of alternative measures which may make disclosure of the requested information unnecessary. Disclosure under the FOIA must therefore be the least intrusive means of achieving the legitimate aim in question.

64. The council considers that the summary table provided to the complainant is sufficient to meet the legitimate interest it had identified. It also advised that the PCP had considered whether a summary of the complaint could be added to the disclosed summary table. However it advised *"the Panel* (PCP) *complies with The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012, and regulation 28(13) applies to this situation:*

> *(13) A police and crime panel shall not publish any part of any such record unless the panel-*
>
> *(a) has given the complainant and the person complained against the opportunity to make representations in relation to the proposed publication; and*
>
> *(b) having considered any such representations, is of the opinion that publication is in the public interest."*

It stated that the PCP *"does not consider the disclosure of this information to be in the public interest, and consent has not been sought from the individuals concerned. Any disclosure, even with the complainants and the complained against persons' consent, could cause harm."*

65. The question of disclosure being necessary relates purely to the issue of whether the legitimate aim, which in this case is for further transparency, can be met by less intrusive means. The detail contained in the withheld information, undoubtedly provides clear insight into the complaints raised and their responses. The general information previously provided to the complainant, however, only makes transparent the number of complaints received and reviewed and, at a very high level, the outcome.

66. As a less intrusive means of meeting the complainant's legitimate interest has not been identified, the Commissioner has gone on to conduct the balancing test.

Balance between legitimate interests and the data subject's interests or fundamental rights and freedoms

67. It is necessary to balance the legitimate interests in disclosure against the data subject's interests or fundamental rights and freedoms. In doing so, it is necessary to consider the impact of disclosure. For example, if the data subject would not reasonably expect that the information would be disclosed to the public under the FOIA in response to the request, or if such disclosure would cause unjustified harm, their interests or rights are likely to override legitimate interests in disclosure.

68. In considering this balancing test, the Commissioner has taken into account the following factors:

- the potential harm or distress that disclosure may cause;
- whether the information is already in the public domain;
- whether the information is already known to some individuals;
- whether the individual expressed concern to the disclosure; and
- the reasonable expectations of the individual.

69. In the Commissioner's view, a key issue is whether the individuals concerned have a reasonable expectation that their information will not be disclosed. These expectations can be shaped by factors such as an individual's general expectation of privacy, whether the information relates to an employee in their professional role or to them as individuals, and the purpose for which they provided their personal data.

70. It is also important to consider whether disclosure would be likely to result in unwarranted damage or distress to that individual.

71. The council explains that the information about complainants and third parties relate largely to their private lives. However the subject of the complaint varies. The complaints are about individuals within the Office of the Police and Crime Commission and so the focus tends to be on their professional life, however there are references to private lives. Other public figures are also referred to and the information relates to both their public and private lives

72. The council advised that complainants would expect their complaint letters to be kept confidential, and third parties identified in complaints would reasonably expect their data to be held confidentially.

73. The council argued that "*Releasing the information about the complainants would cause distress to them. As mentioned previously, while the complaints are about individuals' professional conduct, these are tied up with the complainants' personal lives. Releasing this information would be likely to cause embarrassment and unnecessary distress. Where third parties are mentioned, if they were made aware that their information had been shared by the complainant this would cause damage to their relationships and could further impact their lives*."

74. Furthermore it stated that it is in the public interest that individuals should be able to make complaints to public authorities and in doing so, to provide full details to enable these complaints to be considered. It is of necessity that this will sometimes include personal data and where relevant, special categories of personal data and data relating to criminal convictions.

75. Regarding the potential harm caused by disclosure the council stated that third parties named in the complaints would suffer unjustified damage and distress. The Commissioner has reviewed the contents of the complaints and is satisfied that, being information of a highly sensitive and personal nature, disclosure is very likely to result in the described harm to individuals.

76. With regard to the claims made against the members of the police constabulary and other public figures, the council advises that there are many unsubstantiated claims. It states that *"Releasing this information would result in reputational harm to these individuals, despite the lack of evidence supplied. Due to the public nature of these individual's roles, any release of information regarding their professional life would impact their personal life. This harm would be unjustified."* Furthermore that the complaints *"have been considered by the Panel* [PCP] *in accordance with the Panel's legal responsibilities. It would be unfair to subject individuals to the risk of additional public debate through the publication of these matters through the Freedom of Information process."*

77. Based on the above factors, the Commissioner has determined that there is insufficient legitimate interest to outweigh the data subjects' fundamental rights and freedoms. The Commissioner therefore considers that there is no Article 6 basis for processing and so the disclosure of the information would not be lawful.

The Commissioner's view

78. The Commissioner has therefore decided that Hampshire County Council was entitled to withhold the information under section 40(2), by way of section 40(3A)(a).

79. Regarding request item 4) the Commissioner has established that the full scope of information comprises the information released to the complainant named "*Table 1 - PCP Complaints 2015-2017*" and the information withheld under section 40(2). She is therefore satisfied that the council has provided a full response to item 4).

Section 1 of the FOIA – general right of access

80. The Commissioner has considered section 1 in relation to request items:

2) A copy of the minutes of meeting for each (complaint) *subsequent to decency and sub-committee meeting;*
3) A copy of the legal reasons for rejection of all the eleven complaints;
5) *A copy of the recommendation made to the Chairman of the full PCP for each and every complaint"*

81. Section 1 of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information within the scope of the request, and if so, to have that information communicated to him.

82. In cases where there is some dispute about 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.

83. 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 is held and any other reasons offered by the public authority to explain why the information is not held. She will also consider any reason why it is inherently likely or unlikely that information is not held. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of proof of the balance of probabilities.

The complainant's position

84. The complainant states the following in relation to each request item:

2) "All committees are lawfully obliged to keep and distribute minutes" ;

3) That the eleven complaints were rejected and that the councils response is *"sophistic and corrupt*"

5) That the council's response *is "complete nonsense", o*n the grounds that it states only the sub-committee (and not the Chairman of the PCP) is responsible for decision making.

The council's position

85. The council gave the following explanation in relation to each request item:

2) The PCP Sub-Committee was conducted as a working group until July 2018 which is in line with the complaints protocol and terms of reference therefore minutes were not taken. However *"the outcome letter to the complainant and the PCC served as a record of the deliberations and outcomes agreed by the Members."* It adds that the letters required approval by all Members that were present at the meetings, in a similar way to meeting minutes, to ensure that they were accurate. This working practice changed in July 2018, when the Complaints Sub-Committee began working as a formal sub-committee of the panel, and subsequent minutes of the meetings are published on the panel's website. It stated that a link has been sent to the complainant for those meetings and hard copies have also been provided.

3) The complaints were not rejected, they were determined, the Panel's responsibility is to "*informally resolve non-criminal complaints against the PCC."* The council has provided the complainant with summary outcome information as previously described. There is no further information held within the scope of this request item.

5) The information is not held because *"Recommendations were not made to the Chairman as complaints were determined by the complaints sub-committee. Activity of the complaints sub-committee was reported on a quarterly basis to each meeting of the Panel until July 2018, at which point the Panel moved to reporting annually as it was considered to enhance the transparency and ease of understanding the data."* These reports are published and copies were provided to [the complainant] in response to an internal review for a separate request on 24 April 2019.

86. Based on the above explanations, the council confirmed that searches for records in scope of the request items were not applicable and that it had not destroyed any information in scope of the request.

The Commissioners conclusion

87. The council has clearly explained why no further information is held in scope of the request. The Commissioner has no evidence to the contrary

of the council's stated position, or that searches would locate further information, or that information has been destroyed.

88. The Commissioner is satisfied, on the balance of probabilities, that the council holds no information in-scope of the request.

89. The Commissioner therefore finds that the council complied with section 1 of the FOIA.

90. In light of the above finding, the Commissioner does not require the Council to take any steps.

Section 3 – Public authorities (for the purposes of the FOIA)

91. section 3(1) of the FOIA states:

"In this Act "public authority" means—

(a) subject to section 4(4), any body which, any other person who, or the holder of any office which—

(i) is listed in Schedule 1, or

(ii) is designated by order under section 5, or

(b) a publicly-owned company as defined by section 6."

92. The council advises that the *"Hampshire Police and Crime Panel is a statutory joint committee set up in accordance with the Police Reform and Social Responsibility Act 2011, consisting of representatives from all of the Local Authorities that cover the area of Hampshire Constabulary. The County Council (the council) was appointed by those Local Authorities to act as a lead Authority to support the Panel in accordance with statutory requirements. This includes the administration of the meetings of the Panel and responding to Freedom of Information requests."*

93. The Commissioner can confirm that the Hampshire Police and Crime Panel is not listed in Schedule 1, or designated by order under section 5, or a publicly owned company as defined by section 6. It is therefore not a public authority as defined by the FOIA. The question that remains, therefore, is whether the council can answer requests on behalf of the PCP.

94. Section 3(2) of the FOIA states:

"For the purposes of this Act, information is held by a public authority if—

(a) it is held by the authority, otherwise than on behalf of another person, or

(b) it is held by another person on behalf of the authority."

95. In this case the request is for information relating to reviews and decisions made by a statutory joint committee consisting of representatives from local authorities. Hampshire County Council ('the council') is the designated lead authority supporting the panel including administration duties. The Commissioner has established that the Hampshire PCP is not a public authority for the purposes of the FOIA. However the council clearly holds information on behalf of the PCP.

96. The question, therefore, is whether information held on behalf of the Hampshire PCP is information held by the council for the purposes of the FOIA.

97. The Commissioners guidance *'Information held by a public authority for the purposes of the Freedom of Information Act'*[3] states that when information is held by a public authority solely on behalf of another person, it is not held for FOIA purposes. However, information will be held by the public authority if the information is held to any extent for its own purposes.

98. Factors that would indicate that the information is held by a public authority for its own purposes include:

- the authority provides clerical and administrative support, whether legally required to or not
- the authority controls access to the information;
- the authority itself decides what information is retained, altered or deleted; and
- the authority deals with enquiries about the information.

99. In order to comply with FOIA requirements, public authorities need to be clear about what information they hold for FOIA purposes. This means they need to be aware what information they are solely holding for

[3] https://ico.org.uk/media/for-organisations/documents/1148/information_held_by_a_public_authority_for_purposes_of_foia.pdf

another person and what information is being held on their behalf by others.

100. With regard to the former, public authorities need to know the basis on which they hold information that is in their possession, and with regard to the latter, authorities should know what information is held on their behalf by another person and also have arrangements in place which allow them to retrieve the information in the event of a request for information being made for it.

101. The Commissioner considers that the council has been very clear about the basis upon which it holds information for the Hampshire PCP and its responsibilities for dealing with information, including answering information requests under the FOIA.

102. The Commissioner finds that the council is correct to answer FOIA requests relating to the Hampshire PCP. This is on the basis that information that is held to any extent for a public authority's own purposes will be held for FOIA purposes; and that the Hampshire PCP is not a public authority as defined in by the FOIA.

Right of appeal

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

104. 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.

105. 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 .....

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF