

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 15 July 2020

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

#### **Decision (including any steps ordered)**

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1. The complainant requested information from Cambridgeshire Constabulary about the ownership of four properties. Cambridgeshire Constabulary advised the complainant that it does not hold this information.
2. The Commissioner's decision is that, on the civil standard of the balance of probabilities, Cambridgeshire Constabulary does not hold the requested information.
3. She requires no steps to be taken as a result of this decision.

#### **Background**

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4. The Commissioner has previously addressed a complaint from the same complainant about Cambridgeshire Constabulary's handling of a request for information, dated 5 October 2018, relating to the same four addresses.

5. The decision notice<sup>1</sup> in that case, FS50812389, was issued on 16 May 2019. The Commissioner's decision in that case was that, on the civil standard of the balance of probabilities, Cambridgeshire Constabulary does not hold the requested information.

6. The complainant subsequently contacted the Commissioner on 7 January 2020. He told her:

*"I have received admissible evidence to prove beyond any reasonable doubt and/or on the balance of probabilities that the Chief Constable of Cambridgeshire held on 5 October 2018 and does hold the data, information and knowledge that I requested on that date.*

*The Chief Constable may have misled the Information Commissioner and the Courts not exclusively".*

7. The Commissioner accepts that the request in this case was made following that correspondence.

## **Request and response**

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8. On 9 January 2020, the complainant wrote to various public bodies, including Cambridgeshire Constabulary, and requested information in the following terms:

*"I trust that one or more of your public bodies hold the names and service addresses of the legal owners holding full title guarantee, with or without defined boundaries, of the following four properties. If so would you kindly provide me with that information or direct me to any other Data Controllers or Data Processors who you consider may hold that information.*

...

1. [address redacted]

2. [address redacted]

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<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2019/2616194/fs50812389.pdf>

3. *[address redacted]*
4. *[address redacted]*".
9. Cambridgeshire Constabulary responded on 6 February 2020. It denied holding the requested information.
10. Following an internal review, Cambridgeshire Constabulary wrote to the complainant on 4 March 2020, maintaining its original position.

## Scope of the case

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11. The complainant contacted the Commissioner on 4 March 2020 to complain about the way his request for information had been handled. He told the Commissioner:

*"I am extremely unhappy with their handling of my request for information that they hold".*

12. The Commissioner understands that the background to the request in this case is an allegation of fraud by the complainant and that there has been correspondence between Cambridgeshire Constabulary and the complainant about such matters for some considerable time.
13. The analysis below considers whether, on the civil standard of the balance of probabilities, Cambridgeshire Constabulary held information within the scope of the request.

## Reasons for decision

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### *Section 1 general right of access*

14. Section 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."*

15. In scenarios such as this one, where there is some dispute between the public authority and the complainant about the amount of information that may 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.

16. 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 the balance of probabilities.
17. In this case, the Commissioner has sought to determine whether, on the balance of probabilities, Cambridgeshire Constabulary hold the requested information - the names and service addresses of the legal owners of the specified addresses.
18. In deciding where the balance of probabilities lies, the Commissioner will consider the complainant's evidence and arguments. She will also consider the searches carried out by the public authority, in terms of the extent of the searches, the quality of the searches, their thoroughness and the results the searches yielded. In addition, she will consider any other information or explanation offered by the public authority which is relevant to her determination.

#### *The complainant's view*

19. The complainant told Cambridgeshire Constabulary that he considered it had:

*"... turned a blind eye to all information I have requested".*

#### *Cambridgeshire Constabulary's view*

20. In confirming that it did not hold the requested information, Cambridgeshire Constabulary told the complainant:

*"Following your request, searches were conducted at Cambridgeshire Constabulary for information relating to your request surrounding the names and service addresses of the legal owners holding full title guarantee, with or without defined boundaries, of the four properties above.*

*These searches failed to locate any records / documents relevant to your request".*

21. During the course of her investigation, the Commissioner asked Cambridgeshire Constabulary questions, as is her usual practice, relating to how it established whether or not it held information within the scope of the request.

22. In its submission to the Commissioner, Cambridgeshire Constabulary advised:

*"Searches were carried out by the chiefs PA regarding each property on force systems but nothing relevant was returned as we do not hold land registry information".*

23. With regard to the nature of the searches it had conducted, it told the Commissioner:

*"E-mail searches, Crime system searches and discussions at senior management level via Chiefs PA".*

24. It confirmed it had performed electronic searches for each of the property addresses specified in the request.

25. Regarding its 'no information held' position, Cambridgeshire Constabulary told the Commissioner:

*"It is not the responsibility of Cambridgeshire Constabulary to hold land registry or valuation data. We therefore do not hold records regarding the legal owners of the properties".*

#### *The Commissioner's view*

26. The Commissioner recognises that the requested information is clearly of interest to the complainant.

27. However, while appreciating the complainant's frustration that Cambridgeshire Constabulary did not hold information within the scope of his request, the Commissioner is mindful of the comments made by the Information Tribunal in the case of *Johnson / MoJ* (EA2006/0085)<sup>2</sup> which explained that the FOIA:

*"... does not extend to what information the public authority should be collecting nor how they should be using the technical tools at their disposal, but rather it is concerned with the disclosure of the information they do hold".*

28. Having considered Cambridgeshire Constabulary's response, and on the basis of the evidence provided to her, the Commissioner is satisfied that, at the time of the request and on the civil standard of the balance of probabilities, Cambridgeshire Constabulary did not hold information within the scope of the request.
29. The Commissioner wishes to make it clear that her findings relate to the information held at the time of the request in this case – 9 January 2020. She did not, nor had an obligation to, consider what was held at 5 October 2018 as this was considered in her previous decision notice FS50812389.
30. The Commissioner therefore considers that Cambridgeshire Constabulary complied with its obligations under section 1(1) of the FOIA.

## Right of appeal

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31. 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](mailto:grc@justice.gov.uk)

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

32. 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.
33. 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 .....**

**Laura Tomkinson**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**