

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

### **Decision notice**

**Date:** 13 October 2022

**Public Authority:** Chief Constable of Northamptonshire Police  
**Address:** Wootton Hall  
Northampton  
NN4 0JQ

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

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1. The complainant requested information relating to whether a named individual worked for Northamptonshire Police.
2. The Commissioner's decision is that Northamptonshire Police correctly relied on section 40(5B)(a)(i) of FOIA to refuse to confirm or deny whether it held information falling within the scope of the request.
3. The Commissioner does not require any further steps.

#### **Request and response**

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4. On 14 April 2022, the complainant made the following request for information under FOIA:

"I am writing to you under the Freedom of Information Act 2000 to request the following information from the Northamptonshire Police:

1. Could you please confirm if the individual named [redacted] (can use the name [redacted]) is the actual employee of the Northamptonshire Police?
2. Does this individual [redacted] work in the past for Northamptonshire Police?

3. Is the [redacted] contractor (trainer for task force or police) for the Northamptonshire Police?"
5. Northamptonshire Police responded on 19 April 2022 and on 20 April 2022, the complainant requested an internal review.
6. Northamptonshire Police provided the complainant with its response to the internal review request on 20 April 2022 in which it stated that it could neither confirm nor deny whether the information was held, referring to section 40 (5B)(a)(i).

### **Reasons for decision**

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7. The following analysis explains why the Commissioner is satisfied that Northamptonshire Police was entitled to neither confirm nor deny holding the information that had been requested.
8. Section 40(5B)(a)(i) of FOIA allows a public authority to refuse to confirm or deny that it holds particular information if the mere act of confirming (or denying) that information is held would, in itself, reveal personal data about an identifiable individual – unless there is a lawful basis for doing so.
9. Section 3(2) of the Data Protection Act 2018 defines personal data as:  
"any information relating to an identified or identifiable living individual".
10. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
11. As the request is regarding whether a named individual works for Northamptonshire Police, the Commissioner is satisfied that confirmation or denial of the requested information would involve the disclosure of personal data.
12. The next step is to consider whether such confirmation or denial would contravene any of the data protection principles. The Commissioner has focused here on principle (a) which states:  
"Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject."

13. In the case of a 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 – or as in this case, the public authority can only confirm whether or not it holds the requested information – if to do so would be lawful, fair and transparent.
14. When considering whether confirmation or denial of the requested information would be lawful, the Commissioner must consider whether there is a legitimate interest in disclosing the information, whether disclosure of the information is necessary, and whether these interests override the rights and freedoms of the individual whose personal information it is.
15. The Commissioner considers that the complainant is pursuing a legitimate interest and that confirmation or denial of whether the requested information is held is necessary to meet that legitimate interest.
16. However, the Commissioner also considers that for Northamptonshire Police to confirm or deny that the requested information is held, would be disclosing personal information, as the data subject has been fully named within the wording of the request. Therefore there is insufficient legitimate interests to outweigh the fundamental rights and freedoms of the data subject. Hence, to confirm or deny if the requested information was held would be in breach of principle (a).
17. The Commissioner's decision is that Northamptonshire Police was entitled to rely on section 40(5B)(a)(i) of FOIA to neither confirm nor deny it held the requested information.

## **Right of appeal**

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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: 0203 936 8963

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)

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**

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