

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

### **Decision notice**

**Date:** 29 March 2022

**Public Authority:** Commissioner of Police of the Metropolis  
**Address:** New Scotland Yard  
Broadway  
London  
SW1H 0BG

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

---

1. The complainant has requested information about Prince Andrew and police protection from the Metropolitan Police Service (the "MPS"). The MPS would neither confirm nor deny (NCND) holding any information , citing sections 24(2) (National security), 31(3) (Law enforcement), 38(2) (Health and safety) and 40(5) (Personal information) of FOIA.
2. The Commissioner's decision is that the MPS was entitled to rely on section 24(2) FOIA to NCND holding the requested information. He does not require any steps.

### **Background**

---

3. The MPS has explained to the Commissioner:

"The Royalty and Specialist Protection Command (RaSP) within the MPS are responsible for protecting the Sovereign and other persons of importance including visiting dignitaries. RaSP have previously confirmed, with the exception of Her Majesty the Queen, her Heir and the Prime Minister, the MPS do not confirm or deny protection regarding other individuals".

## Request and response

---

4. On 12 October 2021, the complainant wrote to the MPS and requested information in the following terms:

“I am aware you have carried out a partial investigation into the alleged crimes of Prince Andrew and for that reason I will not go into any detail.

Were any police protection officers accompanying Prince Andrew on or about the dates of the alleged crimes?

Please provide as much information as you hold to indicate the whereabouts of Andrew on the relevant dates.

On one date he alleges he was at a Pizza restaurant. Do your records collaborate this statement?”

5. On 2 November 2021, in a letter dated 21 October 2021, the MPS responded. It refused to confirm or deny that it held the requested information. It cited sections 24(2) (National security), 31(3) (Law enforcement), 38(2) (Health and safety) and 40(5) (Personal information) of FOIA.
6. The complainant requested an internal review on 2 November 2021.
7. The MPS provided an internal review on 16 November 2021 in which it maintained its original position.

## Scope of the case

---

8. The complainant contacted the Commissioner on 18 November 2021, to complain about the way his request for information had been handled. His grounds were that the public would assume that Andrew would have had royal protection and:

“The information I am sure the police hold would resolve one way or the other the claims currently in the USA courts against Andrew. Perhaps as a compromise solution the answer to my questions should be made available to the courts if you decide I am not legally entitle to it”.

9. The Commissioner required further information from him which was provided on 8 February 2022.

10. The complainant asked the Commissioner to consider the application of exemptions to the request. The Commissioner will consider these below.

## Reasons for decision

---

### Neither confirm nor deny (NCND)

11. Section 1(1)(a) of the FOIA requires a public authority to inform a requester whether it holds the information specified in the request.
12. The decision to use a NCND response will not be affected by whether a public authority does or does not in fact hold the requested information. The starting point, and main focus for NCND in most cases, will be theoretical considerations about the consequences of confirming or denying whether or not a particular type of information is held.
13. A public authority will need to use the NCND response consistently, over a series of separate requests, regardless of whether or not it holds the requested information. This is to prevent refusing to confirm or deny being taken by requesters as an indication of whether or not information is, in fact, held.
14. The MPS has taken the position of neither confirming nor denying whether it holds any of the requested information in its entirety, citing sections 24(2) (National security), 31(3) (Law enforcement), 38(2) (Health and safety) and 40(5) (Personal information) of FOIA. The issue that the Commissioner has to consider is not one of disclosure of any requested information that may be held, it is solely the issue of whether or not the MPS is entitled to NCND whether it holds **any** information of the type requested by the complainant.
15. Put simply, in this case the Commissioner must consider whether or not the MPS is entitled to NCND whether it holds any information about the protection of Prince Andrew during the time period given.
16. The MPS has said that the information described in the request, if it was held, would be fully exempt from disclosure by virtue of each of the sections cited.

### **Previous decision notice**

17. The Commissioner recently considered a similar request to this one and issued a decision notice on 21 May 2021<sup>1</sup>. The request was also made to the MPS and was for "the logs for the Royal Protection Officers who accompanied Prince Andrew from 1 Jan 2000 to 31 Dec 2009, giving specific locations and times". The MPS supplied similar arguments in that case as it has done here.
18. In that case, the Commissioner upheld the MPS's reliance on section 24(2) for the same reasons that would apply in this case.
19. There are no additional arguments advanced by the complainant in this case which would require further consideration by the Commissioner. There is also nothing which the Commissioner considers would change his views from the time that the previous decision was reached until now.
20. Rather than re-argue the same rationale here, the Commissioner has determined, based on the same rationale that he applied in that case, that the MPS was entitled to rely on section 24(2) to NCND whether the requested information was held.
21. As the Commissioner has determined that this exemption is properly engaged he has not found it necessary to consider the other exemptions cited.

---

<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2021/2619832/ic-76752-z6p5.pdf>

## Right of appeal

---

22. 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)

23. 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.
24. 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 .....**

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