

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 June 2023

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 an incident that occurred at a kennels facility in 2009, from the Metropolitan Police Service (the "MPS"). The MPS advised that it does not hold the requested information.
2. The Commissioner's decision is that, on the civil standard of the balance of probabilities, no information is held. No steps are required.

Request and response

3. On 10 January 2023, the complainant wrote to the MPS and requested the following information:
 - "1) I would like to request the post-mortem reports of the dead dogs found at Longcross kennels when raided by the Met police on sept 11th 2009
 - 2) I also request the details of the magistrate who authorised the raid at Longcross kennels.
 - 3) I also request the information held by the Metropolitan Police with regard to the communication between the met and the RSPCA.
 - 4) I would also like the information as to the other forces which held dogs at Longcross kennels.

5) I also request the details of the veterinary surgeon who was present on the day.

6) I also request the details of the environmental health officer who was present from Runnymede council and any correspondence between the Met and the council”.

4. On 18 January 2023, he made a further submission to the MPS. This later correspondence was differently worded from the original request and contained additional questions; the Commissioner has numbered these so that they follow on from the earlier request and the two have been considered together. He wrote:

“I’m sorry for the repeated request, as this is maybe the second request for this information.

7) Please can you supply me with all the details of the raid on Longcross kennels which took place on the 11 sept 09.

8) I request the magistrate who authorised the raid and the person [sic] who authorised the warrant on the home address.

9) I also request all the officers names whom attended the raid

10) I also request all the details of the persons prostituted [sic].

11) I also request the post-mortem [sic] details of the dead dogs found as well as the veterinary surgeon whom attended.

12) I also request the information as to how long Longcross kennels had a contract with the Met police.

13) I also request the information as to the other forces who held dogs at Longcross.

14) I also request all correspondence between the Met police and Runnymede council and any other information available”.

5. On 2 February 2023, the complainant again wrote to the MPS. He said:

“Please can you conduct an internal investigation Re my last request [MPS reference redacted].

I request the Post-Mortem reports of the dead dogs found at Met police contracted kennels Longcross.

If you are unable to find these [sic] details.

May I advise this matter be sent directly to DAC Grey at Scotland Yard for further investigation?

Further: I now have the photographic evidence of the raid on Longcross kennels in September 09. Which your office stated does not exist”.

6. On 30 March 2023, the MPS provided a partial disclosure. It explained to the complainant that it had:

“...located a FOIA response in the public domain¹ from April 2012 concerning the subject matter of your request. (Please note that MPS FOIA disclosures are generally held on our website for a period of 3 years and then deleted.) In the said disclosure, the date for the joint operation between the MPS and the RSPCA is cited as 15/09/2009. However, the information requested is very similar to your request for information. The FOIA response in the public domain contains a redacted summary of a joint operation between the MPS and the RSPCA at the kennels named in your request on 15/09/2009.

Additionally, if the information requested does relate to 15/09/2009, a further FOI request to Runnymede Council² in the public domain indicates that Runnymede Council had no involvement in the operation.

Whilst we have not concluded our searches for the information requested, it should be noted that in general and in keeping with the MPS retention, review and disposal policy, the MPS does not retain the type of records you have requested indefinitely”.

7. It stated the following, with reference to the requests in the links referred to above:

“In regards to Questions 1 and 3 – The information requested has been identified as being accessible via other means as it is already published. Where information is already in the public domain we are not required to re-publish the data; instead public authorities are required to direct you to the information, which we have done in this instance. This action is in accordance with section 21 of the Freedom of Information Act and this response serves as a section 17(1) notice”.

¹ https://www.whatdotheyknow.com/request/report_on_kennel_raid

² https://www.whatdotheyknow.com/request/information_on_rspca_raid_on_l_on

8. Regarding the contract length at part (12), it advised: "The MPS issued a termination letter to Longcross Kennels in September 2009. The contract commencement date was 1st April 2009 so the contract was in place for less than 6 months".
9. Regarding the remaining parts, it said that no information was held.
10. On receipt of the MPS' response, the complainant requested a further internal review. He said:

"You state that the contract was only for 6 months but the evidence I now attach shows the Met had dogs at Longcross for longer than 6 months. Can you please explain this other report in Jan 09?"

I also enclose part of the raid report in September 09 which refers to the EHO officer Environmental Health Officer from Runnymede council yet [name redacted] from the foi at the Met says the council weren't involved. Could you explain this please?"

11. On 11 April 2023, the complainant made further comments to the MPS. These were not requests for recorded information and did not relate to the request under consideration here. Therefore, the Commissioner has not reproduced them and has not taken them into account in his deliberations.
12. On 27 April 2023, the MPS provided an internal review. It advised that it had previously directed him to information already in the public domain, ie an attachment contained within its response which can be found via the link at footnote (1) above. It said no further information was held.

Scope of the case

13. The complainant contacted the Commissioner on 4 May 2023, to complain about the way his request for information had been handled. He said:

"Unfortunately no more questions have been answered and I don't believe will be. As this would further incriminate the Met Police...."

Of the 15 or so questions put to [name redacted] only one was answered. Which was that a new contract was renewed in April 09 at Longcross.

I find it incredible that they are unable to confirm who authorised the licence in April. I find this extremely wording [sic] indeed.

My investigation shows many clear indications that the kennels was in contravention of its licence requirements in January 09 and that

those issues were still present in September 09 when the kennels was raided.

I would have expected a little more transparency...

...I would like to know what the ICO thinks about this complete lack of transparency and how best to go forward. What can the ICO do?"

14. Further comments were made about a tribunal allegedly brought against the complainant by the MPS. If there were such an action this would fall outside the Commissioner's remit and would not be directly related to the information requests under consideration here. Therefore the Commissioner has not considered these comments any further.
15. The complainant has also submitted further 'evidence' to the Commissioner in support of his own investigation into the kennels and other related matters. However, his concerns are not relevant to the Commissioner's investigation. The Commissioner's jurisdiction only concerns whether or not the MPS has complied with FOIA, ie he is only able to consider whether or not the MPS holds any further information which it has not disclosed.
16. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of FOIA. FOIA is concerned with transparency and provides for the disclosure of information held by public authorities. It gives an individual the right to access recorded information (other than their own personal data) held by public authorities. FOIA does not require public authorities to generate information or to answer questions, provide explanations or give opinions, unless this is recorded information that they already hold.

Reasons for decision

Section 1 – general right of access

17. Section 1 of 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 them.
18. In this case, the complainant suspects that the MPS holds more information from which it could answer parts of the request. The MPS' position is that it does not.
19. 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.

20. The Commissioner will consider the complainant's evidence and arguments. He 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. He 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, he is only required to make a judgement on whether the information is held on the civil standard of proof of the balance of probabilities.
21. Therefore, the Commissioner has sought to determine whether, on the balance of probabilities, the MPS holds any more recorded information which falls within the scope of the request.

22. In its refusal notice the MPS explained to the complainant:

"To locate the information relevant to your request searches were conducted by MPS Finance, M07 Dog Unit, M06 Public Order Planning, MPS Records Management and MPS Commercial Services...

... Despite reasonable enquiries within the MPS, no information relevant to these questions were located. Therefore, this information is not held by the MPS".

23. In its internal review the MPS added:

"You have requested information which dates back to matters more than 13 years ago. From information in the public domain, it can be seen that the MPS did hold some information relevant to your request, however, even if information has been held by the MPS at some time in the past, the MPS does not generally retain information for an indefinite period unless there is a specific policing requirement to do so.

ICO guidance concerning whether information is held by a public authority states that appropriate searches should be conducted. As such, I have reviewed the searches and enquiries conducted by the Information Manager who dealt with your request and I have conducted additional searches and enquires and I conclude that reasonable searches have been conducted and that the information you seek is not held by the MPS".

24. The Commissioner considers that the MPS approached those areas of business which were most likely to hold the requested information. As he was aware of a service complaint raised by the complainant, and that the complainant had also referred to a tribunal, the Commissioner checked whether the MPS had also approached the areas of business dealing with these matters. He was advised that enquiries had been made and that neither the Professional Standards Taskforce nor the Directorate of Legal Services held any information relevant to the request.
25. It is also noted that the second part of the older request to the MPS (see footnote 1 above), as in this case too, sought copies of: "...the autopsy reports on the six dead dogs found in the food freezers at the kennels". When responding to that request at the time, the MPS advised :

"...the requested information is not held by the MPS. Post mortems, examinations and subsequent disposal of the dead dogs, once it was confirmed that they were not required for evidential purposes, were conducted by the RSPCA. We do not hold post mortem reports or photographs of the deceased dogs".
26. That request was made more than 11 years ago and the MPS advised that this information was not held back then. The Commissioner can see no reason why it would now have obtained that information.
27. Regarding the age of the information, which concerns events from more than 13 years ago, the Commissioner sought further clarification from the MPS regarding its records management policy.
28. The MPS advised the Commissioner that this policy was available online and provided a link to it³. This evidences that the requested information would no longer be held due to its age and type. It indicates that information that relates to requests considered under FOIA is retained for 2 years from the date of the request, therefore anything which may have been relied on for responding to the request referenced in paragraph 4 above would no longer be held. More generally, the subject matter referred to in the request would be likely to fall within the "all other offences" Group 3 category referred to in the policy. Therefore, any information that may possibly have been held would have been disposed of after 12 years, ie 2021.

³ <https://www.met.police.uk/SysSiteAssets/foi-media/metropolitan-police/policies/met-hq---portfolio--planning---records-management-policy-toolkit>

29. Based on the searches undertaken, the responses provided and evidenced further by the records management policy, the Commissioner is satisfied that, on the civil standard of the balance of probabilities, no recorded information within the scope of the request is held. He is therefore satisfied that the MPS has complied with the requirements of section 1 of FOIA in this case.

Right of appeal

30. 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
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

31. 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.

32. 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
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