

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 9 May 2011

Public Authority: Northern Ireland Fire and Rescue Service
Address: Headquarters
1 Seymour Street
Lisburn
BT27 4SX

Summary

The complainant requested information about the attendance by Northern Ireland Fire and Rescue Service (NIFRS) at a number of fires. NIFRS disclosed some of the information and told the complainant that they did not hold the remainder of the information within the scope of his request. The Commissioner is satisfied that the information is not held and the public authority complied with section 1(1)(a) of the Act.

The Commissioner's Role

1. 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 the Freedom of Information Act 2000 (the Act). This Notice sets out his decision.

The Request

2. On 26 May 2010 the complainant wrote to the Northern Ireland Fire and Rescue Service (NIFRS) to request information relating to the attendance by NIFRS at a number of fires in a particular location. In particular he asked for:

'1/ The NIFRS has had to attend numerous fires at the old mill on the Castlereagh road Belfast in 2009 and 2010, has the NIFRS carried out any investigations as to the source of these fires.

2/ If the NIFRS has carried out any investigations into these fires could I have a copy of any reports please?

3/ If the NIFRS carried out any investigations into these fires can you tell me the number that were accidental and how many were deliberate or malicious?

4/ The NIFRS has had to attend numerous fires at the old mill on the Castlereagh road Belfast in 2009 and 2010 – was any firefighter injured attending these calls, if so could you give me the total number?'

3. On 1 June 2010 NIFRS wrote to the complainant and disclosed information in relation to part 1 of the request, stated that they did not hold information in respect of part 2 of the request, and provided information in respect of parts 3 and 4 of the request.
4. On 1 June 2010 the complainant asked for a review of the handling of his request as he believed that there were more than two fires at the 'Old Mill' address as specified in his original request and that fire reports did exist in respect of the deliberate nature of the fires.

The Investigation

Scope of the case

5. On 13 June 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant told the Commissioner:

'my complaint is about the way my request was handled and the failure to provide the information requested'.

6. As the complainant had received responses to parts 1, 3 and 4 of his request, the Commissioner has not included those within the scope of the request and has focussed on part 2:

'if the NIFRS has carried out any investigations into these fires could I have a copy of any reports please'.

7. The Commissioner exchanged correspondence with the complainant in order to clarify the scope of the request. In particular the Commissioner sought to understand what constitutes a 'report' for the purposes of the request. The Commissioner also asked the complainant to provide any information to support his view that 'reports' should be held by the public authority.

8. The complainant told the Commissioner that he believed that reports were held by the public authority as he was previously a fire fighter and believed that reports should have been completed for the fires at the location specified in his request.
9. The Commissioner determined that the scope of his investigation would be focussed on whether the public authority held the requested information within the scope of part 2 of the request and accordingly whether it had complied with its obligations under section 1(1) of the Act.

Chronology

10. The Commissioner contacted the public authority to ask for all information relevant to the request, details of the searches it had carried out in order to identify any information falling within the scope of the request, and to provide further information to support its view that the requested information was not held.
11. On 8 December 2010 and 20 April 2011 the public authority provided the Commissioner with information in order that he could make a decision on whether it had correctly relied on section 1(1). In particular it provided:
 - a copy of its policy guidelines for completing a fire report;
 - an example of a fire report template (FDR 1 form);
 - an example of an incident log;
 - various other correspondence and documents relating to the request and search for information.

Analysis

Substantive Procedural Matters

Section 1: information not held

12. Section 1(1) provides 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.'*

13. As discussed at paragraph 7 above, the Commissioner understands that the complainant is seeking copies of reports into fires at a specific location, namely:

'The Old Mill on the Castlereagh Road'.

14. The Commissioner corresponded with the public authority on a number of occasions to seek to understand when a report would be completed and therefore be held by it for the purposes of the Act.
15. The public authority told the Commissioner that it did not hold 'reports' as its policy guidelines were clear that when a fire is reported at a derelict location, and provided that none of the other conditions in the guidelines are met (for example, no injuries are reported), then a report is not completed. In respect of the incidents within the scope of the request, no reports were completed as the fires occurred at a derelict property and therefore it did not hold the information.
16. The public authority provided the Commissioner with a copy of the policy guidelines which were issued in 1994.
17. The Commissioner contacted the complainant and explained that he was satisfied with the response from the public authority and provided him with a copy of the policy guidelines together with an explanation of the application of the policy by the NIFRS.
18. The complainant was dissatisfied with the view of the Commissioner and accordingly the Commissioner informed the complainant that he would now proceed to a Decision Notice.
19. The Commissioner is mindful that the Act does not require public authorities to create information in response to a request. The Act provides a qualified right of access to recorded information only. Therefore the Commissioner can only consider whether or not the NIFRS actually held the requested information; he cannot comment on whether it ought to create or hold it.
20. As already outlined the complainant argued that the requested information should be available. He argued that he was a former fire fighter and based on his prior knowledge it was his belief that fire reports should have been completed for those incidents within the scope of his request. Unfortunately he was unable to provide any other substantive evidence to support his belief.

21. The public authority has provided a detailed explanation to the Commissioner as to why it does not hold the requested information, including when a report would be completed into a fire in line with its policy guidelines and in the circumstances relevant to this request. The Commissioner has also seen a copy of the policy and other documents. The Commissioner accepts that this is a reasonable explanation, given the function of the NIFRS and its responsibility to follow its own policy guidelines.
22. The public authority also stated to the Commissioner that it carried out searches of its administrative records for relevant information. The Commissioner is satisfied that NIFRS has demonstrated its consideration of whether relevant information might be held in any of its records.
23. The Commissioner notes that the NIFRS agreed to assist the understanding of the complainant by agreeing to allow the Commissioner to provide a copy of the policy guidelines to him.
24. The Commissioner notes the complainant's desire and belief that the requested information should be held by the NIFRS. However, just his belief that certain types of information should be held does not mean that the information can or should be created by the public authority. The Commissioner is mindful of the decision of the Information Tribunal (now known as First-tier Tribunal (Information Rights)) in *Day v the ICO and Department for Work and Pensions (DWP)* (EA/2006/0069):

"..... The Act only extends to requests for recorded information. It does not require public authorities to answer questions generally, only if they already hold the answers in recorded form. The Act does not extend to requests for information about policies or their implementation, or the merits or demerits of any proposal or action – unless of course, the answer to any such request is already held in recorded form...."

25. Accordingly, the Commissioner is satisfied that the NIFRS does not hold the requested information. He therefore finds that the NIFRS complied with section 1(1)(a) of the Act when it denied that it held information falling within the request.

The Decision

26. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act.
27. The Commissioner requires no steps to be taken.

Right of Appeal

28. 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
Arnhem House
31, Waterloo Way
LEICESTER
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk

Website: www.informationtribunal.gov.uk

29. 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.
30. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 9th day of May 2011

Signed

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

Legal Annex

Freedom of Information Act 2000

Section 1(1) provides 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."