

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 February 2012

Public Authority: The Chief Constable
Address: Greater Manchester Police
Chester House
Boyer St
Manchester
M16 0RE

Decision (including any steps)

1. The complainant has requested information about himself. The public authority neither confirmed nor denied that it held any information under section 40(5) of the Act. It further advised the complainant that he would need to request his 'personal data' under the subject access provisions of the Data Protection Act 1998; it provided him with an application form to make such a request.
2. The Information Commissioner's decision is that the public authority handled the request properly. He requires no further action.

Request and response

3. On 2 November 2011, the complainant wrote to the public authority and requested information in the following terms:

"Under the Freedom of Information Act could you please provide me with the following information:

1. *Which human rights violations against me has Greater Manchester Police admitted liability for?*
2. *What offers of compensation have been made to my lawyers?*
3. *A copy of all communications (including notes of conversations) between lawyers working for me and Greater Manchester Police and/or their representatives;*
4. *Which lawyers (namely [names redacted] – but not restricted*

- to) have been prosecuted for offences against me?*
5. *A copy of all communications between the Home Office and Greater Manchester Police regarding me.*
 6. *Which Police Officers have been disciplined or prosecuted for offences against me?"*

4. The public authority responded on 9 November 2011. It stated that it would neither confirm nor deny holding any information by virtue of section 40(5)(b)(ii) of the FOIA. It further advised the complainant of his subject access rights under the terms of the Data Protection Act 1998 (the "DPA") and provided him with the necessary means to make such a request.
5. Following an internal review the public authority wrote to the complainant on 29 November 2011 maintaining the same stance under the FOIA.

Scope of the case

6. On 19 December 2011 the complainant contacted the Information Commissioner to complain about the way his request for information had been handled. He asked for his request under the FOIA to be considered.
7. On the 22 December 2011 the Information Commissioner wrote to the complainant. He advised the complainant that he was not able to request his own personal data under the terms of the FOIA as it was absolutely exempt.
8. On 10 January 2012 the complainant again wrote to the Information Commissioner. He again submitted a complaint in respect of his request made under the terms of the FOIA.

Reasons for decision

Section 40 – personal information

9. Under section 40(1) information that is requested that constitutes the applicant's 'personal data' is exempt information. This exemption is absolute and requires no public interest test to be conducted. In addition, in relation to such information public authorities are not obliged to confirm or deny whether they hold the requested information, by virtue of section 40(5) – in this case the public authority has cited 40(5)(b)(ii).

10. After careful consideration of the wording of the request, the Information Commissioner is satisfied that the complainant is, or would be, the subject of all of the information requested. The information would identify him, be linked to him and would relate to issues involving his interaction with the public authority and other bodies. The Information Commissioner considers that he is a 'data subject' within the meaning of the section 40(1) exemption and therefore any information would be his 'personal data'. Further, as section 40(1) would apply the public authority was not required to comply with the obligation to confirm or deny whether it holds the information.
11. The Information Commissioner further notes that the information requested, if held, would contain information about third parties, ie those who are referred to by the complainant in his request. However, as he considers that the information is properly exempt by virtue of the absolute exemption at section 40(1) he has not gone on to consider whether section 40(2) would also apply to the information.

Right of appeal

12. 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: 0116 249 4253
Email: informationtribunal@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

13. 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.
14. 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

Jon Manners
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