

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 June 2012

Public Authority: Chief Constable of Lancashire Constabulary
Address: Police Headquarters
Saunders Lane
Hutton
Preston
PR4 5SB

Decision (including any steps ordered)

1. The complainant requested information about hate crimes reported to Lancashire Constabulary ('the Constabulary') by employees of the Tax Credit Office in Preston against HMRC from November 2001 – November 2011.
2. The Commissioner's decision is that the Constabulary has correctly relied upon section 12 of the Act as the basis of its refusal of the request.

Request and response

3. On 16 November 2011, the complainant wrote to the Constabulary and requested information in the following terms:

Please can you tell me how many Hate Crimes have been reported to the Lancashire Police Hate Crimes Unit (including the hate crimes unit in Burnley) by Civil Servants or former Civil Servants employed at the Tax Credit Office in Preston against Her Majesty's Revenue and Customs (HMRC) within the last ten years.

Please can you also tell me how many of these hate crimes included:

- 1) False sexual allegations
- 2) False allegations of expressing support for suicide bombers.

- 3) *False allegations of bullying*
- 4) *Allegations of expressing 'extreme political views' for heckling the British National Party (BNP) at a lawful demonstration outside of work.*
- 5) *Allegations HMRC misused public funds to charge an Asian employee with holding 'extreme political views' for heckling the British National Party (BNP) at a lawful demonstration outside of work.*

Please tell me what was the outcome of these complaints? For example, did Lancashire Police take the view HMRC was above the law and if so, on what grounds? Or did they decide to prosecute these hate crimes and was the matter referred to the Crown Prosecution Service (CPS). if so, what was the outcome?

Please tell me how many of these hate crimes were committed by Asian members of staff employed by HMRC against whites?

And white members of staff employed by HMRC against Asians.

Please tell me how many of these hate crimes was prosecuted under the Protection from Harassment Act (1997).

- 4. The Constabulary provided an initial response on 17 November 2011. It stated that the request was being aggregated with a previous request from the complainant that was still outstanding.
- 5. On 5 December 2011 the Constabulary issued a refusal notice, citing section 12. It also stated that section 12 would still have applied even if the request of 16 November 2011 had not been aggregated to the previous request.
- 6. The Commissioner has not considered whether the Constabulary was correct to aggregate the requests. He has focussed his decision on the Constabulary's application of section 12 solely in respect of the complainant's request of 16 November 2011.
- 7. Following a request by the complainant the Constabulary conducted an internal review. The outcome, communicated on 13 January 2012, upheld the original decision.

Scope of the case

- 8. The complainant contacted the Commissioner to complain about the response he had received from the Constabulary. In response to the internal review the complainant stated that:

"I believe (sic.) the reason [the Constabulary] won't give a reply is because it will show HMRC staff have reported hate crimes by other HMRC staff in the workplace and Lancashire Police have refused to take action."

9. The Commissioner considers the scope of the case to be whether section 12 has been correctly applied by the Constabulary.

Reasons for decision

10. Section 12(1) of FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.
11. When considering whether section 12(1) applies, the authority can only take into account certain costs, as set out in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ('the Regulations').
12. Paragraph 4(3) of the Regulations states:

"In a case in which this regulation has effect, a public authority may, for the purpose of its estimate, take account only of the costs it reasonably expects to incur in relation to the request in -

 - (a) determining whether it holds the information,
 - (b) locating the information, or a document which may contain the information,
 - (c) retrieving the information, or a document which may contain the information, and
 - (d) extracting the information from a document containing it.
13. The Regulations state that the appropriate cost limit is £600 for central government, legislative bodies and the armed forces, and £450 for all other public authorities, which includes the Constabulary. This £450 limit is equivalent to 18 hours' work.
14. The Constabulary explained that all hate crimes are stored solely on the Constabulary's crime recording system. It stated that in the 10 year period requested, their crime recording system had record of 24,672 hate crimes. Consequently, the Constabulary stated there is no feasible way of locating the requested information within the appropriate limit.

15. In order to find the requested information within the appropriate limit, the Constabulary explained that it would need to sort the information into a more manageable amount. Given the terms of the request, there are three reasonable ways to do this: first, sort the information by the employment details of the aggrieved – in this case a civil servant for HMRC; second, to locate the identity of the offender – in this case HMRC; third, to identify the crimes through the location where the offence took place – in this case the Tax Office in Preston.
16. For the first option, the Constabulary informed the Commissioner that if a hate crime is being reported to an officer or member of the Constabulary's staff, occupation details can be recorded, although it is not mandatory.
17. The alternative to reporting a crime to an officer or member of staff is to use the Constabulary's on-line form available through their website. This does not have a section for employment details; however it does include a box for 'additional details', in which it is possible to record employment details.
18. The Constabulary carried out searches with the references 'HMRC', 'revenue' and 'customs' within the aggrieved's occupation field and the additional details field, all produced nil results.
19. At the request of the Commissioner, the Constabulary searched the crime recording system using the term 'civil servant'. This produced 59 results, 1 of which met the criteria of the complainant's request because it related to an allegation of a hate crime made by the complainant himself.
20. Despite being able to reduce the total number of hate crimes identified using this search, this is not necessarily an accurate answer to the information request. The majority of crimes recorded make no mention of occupation details, so to provide an accurate figure a manual search of the 24,672 hate crime files would be required. This would allow the Constabulary to locate any mention of employment details on the written record.
21. For the second option, the Constabulary stated that crimes are recorded against individuals. The fields for the name of an offender provide space for a surname and three first names. Although there is nothing to stop an organisation name from being recorded in these fields, the Constabulary stated that in practice it does not happen and searches for 'HMRC' in these fields produced nil results.
22. For the third option, the Constabulary stated that the place where an offence took place is recorded, only as an address or location, and not

as an organisation. When the term 'HMRC' is searched for it produces nil results. The Commissioner asked a member of the Constabulary about checks against specific branches, and was told that a search had been carried out against the HMRC office in Preston (the location of the Tax Credit Office); this produced nil results.

23. There is also an option to enter the type of location into a separate field (i.e. in this instance, 'government building'). When this search was carried out it did not produce any results for HMRC.
24. In this instance, the crime recording system is unable to limit the total of hate crimes by any of the three reasonable methods: by employment details of the aggrieved, by the details of the offender, or by the location of the offence.
25. As all three options have been exhausted, to establish whether any information is held a manual audit of the files would be required. Given the high volume of hate crimes, this would not be possible within the 18 hour appropriate limit. Therefore, the Commissioner is satisfied that the Constabulary have correctly applied section 12 in their refusal notice to the complainant's request.

Other matters

26. The Commissioner wishes to highlight the Constabulary's provision of advice and assistance, as required under section 16 of the Act.
27. It is the Commissioner's view that the Constabulary's responses to the complainant could have provided more assistance. Whilst the Constabulary offered the complainant the opportunity to refine his request, it did not offer any assistance on the best way to do this.
28. Further, the Commissioner was initially informed there was no method of reducing the total number of hate crimes. However, information posted on the Constabulary's website, as well as from other disclosures available on the internet, show that it is possible to categorise hate crimes by the type of offence committed (racial hate crime, gender hate crime etc.).
29. This demonstrates that the Constabulary does have means of refining the scope of the request. This information has been passed on to the complainant, should he wish to do so.
30. The Commissioner has reminded the Constabulary of their section 16 duty. This has been noted by the Constabulary.

Right of appeal

31. 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

32. 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.
33. 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

Alexander Ganotis
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