

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 September 2012

Public Authority: Commissioner of the Metropolitan Police Service

Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant requested information concerning the number of crimes reported in the Olympic Park in the years running up to the Games. The Metropolitan Police Service (MPS) refused to disclose this information and cited the exemption provided by section 22 (information intended for future publication) of the FOIA.
2. The Commissioner's decision is that this exemption was applied correctly and so the MPS is not required to disclose this information.

Request and response

3. On 21 March 2012, the complainant wrote to the MPS and requested information in the following terms:

"Please provide me with a list of crimes reported, that occurred within the geographical boundaries of the Olympic park. Please provide information for the years 2009/10, 10/11 and 11/12."

4. The MPS responded on 19 April 2012. It stated that the request was refused with the exemption provided by section 22(1) (information intended for future publication) cited.
5. The complainant responded to the MPS and requested an internal review on 19 April 2012. After a delay the MPS wrote to the complainant with the outcome of the internal review on 14 June 2012. It stated that the

refusal under section 22(1) was upheld and clarified at this stage that the publication would take place in a report due to be published by December 2012.

Scope of the case

6. The complainant contacted the Commissioner to complain about the way her request for information had been handled on 9 July 2012. At this stage the complainant indicated that she wished to complain about the refusal to disclose the information she had requested and the delay in the completion of the internal review.

Reasons for decision

Section 22

7. Section 22 provides an exemption for information which is intended for future publication. For this exemption to be engaged, there must have been at the time of the request a clear, settled intention to publish the requested information. It must also have been reasonable to withhold the information from disclosure until the date of publication. This exemption is qualified by the public interest, meaning that the information should be disclosed if the public interest in the maintenance of the exemption does not outweigh the public interest in disclosure.
8. The task for the Commissioner here is to consider first whether the exemption is engaged as a result of there being a clear plan for publication in place at the time of the request and for it to have been reasonable to abide by this plan rather than disclose in response to the request. Secondly, if the exemption is found to be engaged, the balance of the public interest must be considered.
9. The reasoning of the MPS for the citing of this exemption was that the requested information was to be published in a report due in December 2012. During the investigation of this case the MPS stated that the specific information requested in this case, along with other policing statistics, would be published in a report titled "*Metropolitan Police Service Post Olympic and Paralympic Games Report*". It also stated that the intention to publish crime statistics relating to the Olympic and Paralympic Games was ratified in a meeting on 16 January 2012. Importantly, the MPS specifically confirmed that this publication would include the information requested by the complainant; that is, information covering the run-up to the Games from 2009-10 until the date of the request.

10. Based on these representations from the MPS, the Commissioner accepts that there was at the time that the request was made a clear, settled intention to disclose the requested information. The next step is to consider whether it was reasonable to delay the disclosure of the requested information until the time of that publication.
11. Of relevance here is an argument advanced by the complainant that similar information to that requested has already been disclosed for the area in which the Olympic park is situated, through 'crime mapping' for the Stratford area for example. The MPS acknowledged that the crime statistics it routinely publishes do cover the area in which the Olympic Park is situated, but maintained that these are not broken down to show statistics specifically for the Olympic Park area. The Commissioner notes that this was a valid point for the complainant to raise, but given that it is clear that the specific information requested by the complainant is to be published he does not believe that the previous disclosure of at least some of this information within statistics relating to wider geographical areas precludes the citing of section 22 here.
12. On the issue of whether it was reasonable to withhold disclosure until the pre-determined publication date, the MPS argued that considerable work was being carried out to prepare the Olympic Park crime statistics for disclosure. Had the information in question here been disclosed in response to the request, it would have been necessary to replicate some of this work with a consequent impact upon resources.
13. The view of the Commissioner is that it was reasonable for the MPS to withhold the information in question from disclosure until the pre-determined disclosure date. The MPS has explained why this information was not published prior to or immediately after the end of the Games (in order to allow it a space within which to analyse the statistics) which the Commissioner accepts. It has also been clear as to the date of the publication and, importantly, this is not an inordinately long period following the date of the request (approximately 8 to 9 months). For these reasons, the Commissioner accepts that the exemption provided by section 22 is engaged.
14. The next step is to consider the balance of the public interest. In forming a conclusion here the Commissioner has taken into account the general public interest in the promotion of the openness and transparency of the MPS, as well as those factors that apply in relation to the specific information in question. This includes arguments advanced by the complainant and by the MPS.
15. Covering first arguments favouring disclosure of the information, as the complainant argued when requesting an internal review, the public interest in full disclosure of information relating to the policing of the

Games is of very great weight. The Commissioner recognises this and regards there as being strong public interest in full disclosure of information relating to the Games given the very significant expenditure of public resources that they entailed. He also regards this public interest as covering the policing of the Games, including in the preparation period covered by the request.

16. The MPS has not attempted to dispute the public interest in the disclosure of this information, instead it argues that the public interest favours disclosure in accordance with the pre-determined schedule rather than in response to the complainant's request. It again relies on the argument given above about allowing a time in which to analyse these statistics and states that this is in the public interest as this will allow the MPS to learn from this policing operation and apply this knowledge to future operations.
17. The Commissioner is in full agreement that disclosure of information relating to the policing of the Games is strongly in the public interest. However, he is also of the view that this public interest will be served by the disclosure of this information in December 2012. As the Commissioner does not believe that earlier disclosure is necessary in order to satisfy the public interest, his conclusion is that the public interest in the maintenance of the exemption for the grounds advanced by the MPS outweighs the public interest in disclosure at this time. The MPS is not, therefore, required to disclose this information prior to the December 2012 report.

Other matters

18. Whilst the FOIA does not provide any time limit for the completion of internal reviews, the ICO published guidance on internal reviews¹ states that a review should be conducted within 20 working days, or 40 working days in exceptional circumstances. In this case the MPS did not complete the review within 20 working days and should ensure that internal reviews are carried out promptly in future.

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http://www.ico.gov.uk/upload/documents/library/freedom_of_information/practical_application/internal%20reviewsv1.pdf

Right of appeal

19. 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

20. 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.
21. 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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