

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 April 2015

Public Authority: Chief Constable of West Midlands Police
Address: Police Headquarters
Lloyd House
Colmore Circus
Birmingham
B4 6NQ

Decision (including any steps ordered)

1. The complainant requested the names and contact details of the coordinators of neighbourhood watch and related schemes. West Midlands Police (WMP) refused to disclose this information and cited the exemption provided by section 40(2) (personal information) of the FOIA.
2. The Commissioner's decision is that WMP cited this exemption correctly and so it was not obliged to disclose this information.

Request and response

3. On 30 September 2014, the complainant wrote to WMP and requested information in the following terms:
"Would you please forward the names and contact details of all registered Neighbourhood Watch, Street Watch and Business Watch coordinators. These details are not the police neighbourhood teams, but the volunteers whom register in the position of a neighbourhood watch person."
4. WMP responded on 27 October 2014. The request was refused, with the exemption provided by section 40(2) (personal information) of the FOIA cited.
5. The complainant responded on 9 November 2014 and requested an internal review. WMP responded with the outcome of the review on 8

December 2014. The conclusion of this was that the refusal of the request under section 40(2) was upheld.

Scope of the case

6. The complainant contacted the Commissioner on 11 March 2015 to complain about the refusal of his information request. The complainant indicated at this point that he believed that the information he had requested should be disclosed to him due to his reasons for wishing to access it.
7. The complainant was subsequently contacted and advised that disclosure through the FOIA meant that information was placed in the public domain, so his own reasons for wishing to access this information were not of primary relevance. The complainant responded that he nevertheless wished the ICO to issue a decision notice.

Reasons for decision

Section 40

8. WMP cited section 40(2) of the FOIA. This section provides an exemption for information that is the personal data of an individual other than the requester and where the disclosure of that personal data would be in breach of any of the data protection principles. Consideration of this exemption involves two stages; first, whether the information in question constitutes personal data and, secondly, whether disclosure of that personal data would be in breach of any of the data protection principles.
9. As to whether this information does constitute personal data, the definition of this is given in section 1(1) of the Data Protection Act 1998 (DPA):

"personal data' means data which relate to a living individual who can be identified-
 - (a) *from those data, or*
 - (b) *from those data or other information which is in the possession of, or is likely to come into the possession of, the data controller".*

10. The complainant has asked for names and contact details – clearly this would be the personal data of those individuals in line with the definition above.
11. The next step is to consider whether disclosure of that personal data would be in breach of any of the data protection principles. The Commissioner has focussed here on the first data protection principle, which requires that personal data be processed fairly and lawfully, and in particular on whether disclosure would be, in general, fair to the data subjects. In forming a conclusion on this point the Commissioner has taken into account the reasonable expectations of the data subjects, what consequences disclosure may have on them and whether there is any legitimate public interest in the disclosure of this information.
12. On the issue of the expectations of the data subjects, the view of the Commissioner is that they would expect their personal data to be used in line with the purposes for which it was provided to the police – the administration of the various “watch” schemes referred to in the request. The Commissioner believes that they would reasonably expect their personal data and involvement with those schemes would not be disclosed into the public domain.
13. On the issue of the consequences of disclosure, the Commissioner believes that disclosure of this information contrary to the aforementioned reasonable expectations of the data subjects would be distressing to those individuals. It could also cause inconvenience and irritation to those individuals if this led to them being contacted by third parties to whom they would not have volunteered their contact details.
14. As to whether there is any legitimate public interest in the disclosure of the information in question, whilst section 40(2) is not a qualified exemption according to section 2 of the FOIA, it is necessary for there to be a public interest element for disclosure to comply with the first data protection principle. The issue here is whether any legitimate public interest in disclosure that does exist outweighs the factors against disclosure covered above.
15. The Commissioner can see no legitimate public interest in the disclosure of the names and contact details of those individuals. These individuals are not acting in a public role; their involvement in those schemes is a voluntary and private matter. The complainant’s personal motivation for requesting this information does not equate to a public interest.
16. On the basis that the data subjects would hold a strong and reasonable expectation that this personal data would not be disclosed, and that disclosure despite that expectation would result in distress, combined with the absence of any legitimate public interest in disclosure, the

Commissioner finds that disclosure would be unfair and in breach of the first data protection principle.

17. The Commissioner's overall conclusion is, therefore, that the exemption provided by section 40(2) of the FOIA is engaged and WMP was not obliged to disclose this information.

Right of appeal

18. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

19. 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.
20. 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

Rachael Cragg
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Wycliffe House
Water Lane
Wilmslow
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SK9 5AF