

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 May 2023

Public Authority: Commissioner of the City of London Police
Address: Police Headquarters
Guildhall Yard East
London
EC2V 5AE

Decision (including any steps ordered)

1. The complainant has requested information about Action Fraud from City of London Police ("COLP"). COLP provided some information, but refused the remainder, citing sections 31(1)(a) and (b) (Law enforcement) of FOIA.
2. The Commissioner's decision is that COLP was entitled to rely on the exemptions cited. No steps are required.

Background

3. The Commissioner has previously considered a request for similar information which was dealt with under case reference FS50879757¹.

¹ <https://ico.org.uk/media/action-weve-taken/decision-notices/2020/2617595/fs50879757.pdf>

4. The complaint in that case was not upheld and the complainant appealed the decision notice. The First-tier Tribunal subsequently dismissed the appeal².

Request and response

5. On 11 November 2022, the complainant wrote to COLP and requested the following information:

“What categories do Action Fraud use when recording reports of fraud from victims? I believe one of these is a witness report, is this correct? What are the others?

What criteria, including any 'points system', do Action Fraud use to categorise victim complaints? Please send the points system if there is one”.

6. On 18 November 2022, COLP responded. Regarding the first part of the request it advised that reports: “...can be submitted via a business or by individuals who can report as a victim, as a witness or on behalf of a witness.” Regarding the latter it advised that no information is held.
7. In 13 December 2022 the complainant requested an internal review. When doing so he said:

“I have repeatedly attempted to file a report of fraud to Sussex Police, who, like most police forces refer me to Action Fraud...

Action Fraud will only accept verbal reports over the phone - IMPORTANTLY they do not accept documentary evidence.

Based purely on the verbal phone report they receive, they either create a witness report or a victim report. Witness reports are not looked at again. So I need to know how to have my complaint of fraud recorded as a victim report, and then see it sent back to Sussex Police to investigate.

Action Fraud have refused to accept my complaint as a Victim Report. I need to know why not.

²<https://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i2787/022%20080321%20Decision.pdf>

It is important to note that Action Fraud is not a police force, and its employees are not trained in, or understand the law concerning fraud. It seems to be a body employed to give the illusion that fraud complaints are actually being dealt with.

The City of London Police control Action Fraud, and they have a positive [sic] duty to investigate fraud where it breaches [sic] a victim's [sic] ECHR rights, which it does in my case.

Therefore the City of London Police DO have the information Action Fraud use to categorise Victim Complaints into those groups that will get to be investigated, and those that do not.

Therefore I ask City of London Police to undergo an internal review of your response to my FOI".

8. COLP provided an internal review on 23 January 2023 in which it revised its position. It explained:

"Action Fraud (AF) is a national reporting facility for offences of Fraud. It has no remit to investigate and reports are passed to the NFIB [National Fraud Intelligence Bureau] for further assessment and dissemination to local Forces and other statutory bodies with a power to investigate. Demand currently exceeds resources and details of the process used to manage demand have never been disclosed to the public domain. Corporate Communications make the following statement when asked: With over 30,000 reports of fraud recorded each month, and limited resources, we have to prioritise those cases we have the capability to investigate further. This prioritisation is done on the basis of several factors, which include but are not limited to vulnerability of the victim and the ability to prevent further frauds. Other factors we consider are not made public. Fraud is the most prevalent crime in the UK currently and we work tirelessly to make fraud awareness and prevention integral to policing's approach to this crime".

9. COLP advised that the information was exempt from disclosure under sections 31(1)(a) and (b) of FOIA. It provided details of the decision notice referred to at paragraph 3, above and also advised the complainant how he could raise a complaint against Action Fraud if he wished to do so.

Scope of the case

10. The complainant contacted the Commissioner on 11 April 2023 to complain about the way his request for information had been handled. He enquired about the earlier decision notice and whether or not he

could appeal it; the Commissioner responded to those enquiries separately.

11. The complainant did not specify which parts of his request he wished to complain about. The Commissioner therefore required further information from him in order to understand what he wanted. The complainant advised:

“The issue I have with the City of London Police is that I made a complaint of fraud to them (they are the lead fraud investigation unit in the UK), then I was called by one of their civilian staff (name redacted) who told me they would not investigate it, but did not give reasons.

I need to know the reasons they refused to record or investigate my report of fraud as subject access request, and how they fit within the general procedure rules by which COLP decide which crime complaints to record and investigate crime, and when they ignore it. COLP's response does not give me any information as to why they have refused to record or investigate my report of fraud, referencing the rules they use to decide which crimes to record and investigate. That is the information I ask you to find out”.

12. The Commissioner cannot comment on how COLP dealt with the complainant's complaint of fraud as this is outside his jurisdiction. However, if COLP recorded anything about how it dealt with his complaint then this may be accessible to the complainant via his access rights under the Data Protection Act (the “DPA”). If the complainant has made a request under the DPA, and is dissatisfied with the response, then he can make a separate complaint to the Commissioner³; if not, he may wish to consider making such a request.
13. The Commissioner is only considering the request which was made under FOIA.
14. The Commissioner considers the scope of his investigation to relate to the latter part of the complainant's request for recorded information, namely: “What criteria, including any 'points system', do Action Fraud use to categorise victim complaints? Please send the points system if there is one”.

³ <https://ico.org.uk/make-a-complaint/data-protection-complaints/data-protection-complaints/>

15. 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 FOIA. FOIA is concerned with transparency of information held by public authorities. It gives an individual the right to access recorded information (other than their own personal data) held by public authorities. FOIA does not require public authorities to generate information or to answer questions, provide explanations or give opinions, unless this is recorded information that they already hold.

Reasons for decision

16. As referred to above, the Commissioner has previously considered the release of any "scoring" system used by Action Fraud in respect of alleged crimes. In that investigation, the Commissioner determined that COLP was entitled to refuse to disclose the requested information.
17. This position was challenged and went on to be considered by the First-tier Tribunal, which upheld the Commissioner's decision. Although such a finding is not binding on the Commissioner, having considered the circumstances of this current case he considers that there is no change in circumstances which would result in him changing his decision.
18. Following the arguments which were previously relied on, and which are set out in full in the decision notice referred to in paragraph 3, the Commissioner has determined that COLP was entitled to withhold the requested information under sections 31(1)(a) and (b) of FOIA.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

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

**Carolyn Howes
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**