

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 20 July 2005

Name of Public Authority: Independent Police Complaints Commission
Address of Public Authority: 90 High Holborn
London
WC1V 6BH

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint which states that on 6 January 2005 the following information was requested from the Independent Police Complaints Commission (the "IPCC") under section 1 of the Freedom of Information Act 2000 (the "Act"):

Full copies of the files relating to the complainant's original complaints made to the Police Complaints Authority (the "PCA").

It is alleged that the IPCC have refused the complainant's request citing a prohibition against release of the information under another statute, namely section 80 of the Police Act 1996. The IPCC consequently claimed that the information was exempt under section 44 of the Act and the complainant believes that this exemption is not valid.

The Commissioner's Decision

Under section 50(1) of the Act, except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the complainant and the public authority.

The Commissioner's decision is as follows:

Section 44(1)(a) of the Act states that information is exempt information "if its disclosure (otherwise than under this Act) by the public authority holding it is prohibited by or under any enactment".

Section 80(1) of the Police Act 1996 prohibits the disclosure of information received by the PCA in connection with its complaint handling functions other than –

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“(a) to the Secretary of State or to a member, officer or servant of the Authority or, so far as may be necessary for the proper discharge of the functions of the Authority, to other persons,
(b) for the purposes of any criminal, civil or disciplinary proceedings, or
(c) in the form of a summary or other general statement made by the Authority which does not identify the person from whom the information was received or any person to whom it relates.”

By virtue of section 80(2), any person who discloses information in contravention of section 80 is guilty of an offence.

A summary under section 80(1)(c) was provided to the complainant on 11 February 2005.

The Police Act 1996 was repealed on 1 April 2004 by virtue of section 107(2), schedule 8 of the Police Reform Act 2002. However, Article 2 of the Independent Police Complaints Commission (Transitional Provisions) Order 2004 No. 671 (as amended) provides that Chapter 1 of Part 4 of the Police Act 1996 (which includes the above-mentioned section 80) shall continue to have effect in relation to complaints made to the PCA / IPCC prior to 1 April 2004. The information requested by the complainant in this case relates to a complaint made prior to 1 April 2004.

The Commissioner's decision in this case is that the IPCC has dealt with the complainant's request in accordance with the requirements of Part I of the Act in that it was entitled to withhold the information requested under section 44 of the Act in view of the prohibition on disclosure contained in section 80 of the Police Act 1996.

Action Required

In view of the matters referred to above the Commissioner does not require any steps to be taken by the IPCC.

Right of Appeal

Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "Tribunal"). Information about the appeals process can be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 6000 877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

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Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 20th day of July 2005

Signed:

Graham Smith
Deputy Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF