

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 13 June 2011

Public Authority: The Chief Officer of Staffordshire Police
Address: PO Box 3167
Stafford
ST16 9JZ

Summary

The complainant requested information regarding guidance or instructions sent to or given out by Staffordshire Police (the Police) in respect of ticket touting at various events. The Police stated that this was information not held by it, following section 1(1)(a) of the Act. The Commissioner accepts that the Police performed appropriate searches to determine if it held relevant information. The Commissioner has decided that, on the balance of probabilities, the Police do not hold any relevant information and were correct to state this in its refusal notice.

The Commissioner's Role

1. 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 the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. The complainant, a solicitor making a request on behalf of a client, requested the following information on 19 August 2010:

'Please treat this as a separate request under s1 of the Freedom of Information Act 2000 for any guidance/instructions sent out/given to Staffordshire Police (although not necessarily from the Home Office) and also internal guidance/instructions relating to ticket touting (excluding that solely relating to ticket touting at football matches and the Olympics).

We have been provided with a copy of a letter from [a named Superintendent] dated 12 August 2008 (copy enclosed) which was sent to a number of ticket touts and lists some of the measures that were put in place to make life difficult for ticket touts and counterfeiters. Bearing in mind the contents of this letter, we would have thought there would have been some sort of guidance/instructions sent out/given to Staffordshire Police (although not necessarily from the Home Office) and also internal guidance/instructions.'

3. On 31 August 2010 the Police stated to the complainant that it did not hold the requested information and provided a brief breakdown of the searches it had performed.
4. The complainant requested an internal review of the Police's decision on 3 September 2010. The result of the internal review was provided to the complainant on 7 September 2010 in which the Police confirmed that it did not hold the requested information.

The Investigation

Scope of the case

5. On 16 September 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant stated that he believed the requested information was held by the Police.

Chronology

6. The Commissioner contacted the complainant on 1 December 2010 to confirm the scope of his complaint as: whether or not the Police were correct in stating that it does not hold the information requested. This scope was accepted by the complainant on 1 December 2010.
7. The Commissioner also contacted the Police on 1 December 2010 to confirm the same scope and ask it further questions regarding the requested information. A response to these questions was provided to the Commissioner on 20 December 2010. The following analysis is based on this response.

Analysis

Substantive Procedural Matters

8. Section 1(1) of the Act provides that:

'Any person making a request for information to a public authority is entitled

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him'

9. The effect of section 1(1)(a) and (b) is that a public authority is under a duty to confirm to a requestor whether or not it holds the requested information and if it does, to provide it to the requestor unless it can rely on one of the Act's exemptions.
10. In determining whether a public authority holds requested information, the Commissioner makes enquiries that will satisfy the civil standard of proof, that is, the information is or is not held on the balance of probabilities.
11. In deciding where the balance of probabilities lies, the Commissioner will consider the searches carried out by the public authority, in terms of the extent of the searches, the quality of the searches, their thoroughness and results the searches yielded. He will also consider any other information or explanation offered by the public authority which is relevant to his determination.
12. The Police provided a breakdown of the searches it performed which had been referred to in its original refusal notice. These searches were made in order to determine whether the requested information was held. It searched the Force policy and procedure database and the Force weekly orders to be conducted. It also contacted the Association of Chief Police Officers (ACPO) to ask if any such guidance/instructions exist and also the Force Tactical Planning Unit and the Superintendent named in the request. Its response to the Commissioner's extra questions further elaborated on these searches.
13. The Police explained that the Force Tactical Planning Unit is responsible for planning the policing operation at the V Festival. With regard to ACPO, it contacted its Programme Support Department, which looks after all of ACPO's guidance documents. The Police's Policy Unit was contacted as it would be responsible for publishing any formal policy/guidance on the subject. The Superintendent was contacted, being the person responsible for the issuing of the letter which prompted the initial request. Finally, the Serious and Organised Crime Unit was contacted as they investigate ticket touting as part of organised crime.
14. The complainant raised the issue of contact between the Police and a company called Roseclaim Ltd, who were responsible for the promotion

and ticketing of the V Festival in 2008. He believed that correspondence should exist, specifically relating to ticket touting, between the Police and Roseclaim Ltd. This was on the basis that it was mentioned in the letter received by his client from the previously mentioned Superintendent.

15. In relation to the letter sent out to the complainant's client, the Police have explained that reference to the policing of ticket touting is interchangeable with, for example, drug dealing or theft. It explained that letters of this type were only sent to people who had been arrested for a criminal act when present at a festival or ticketed event previously. These letters were therefore issued to inform individuals who had previously been arrested that the police would be on the look out for any potential criminal activity, which would be done under normal policing procedures, rather than following specific guidelines for a specific event.
16. The Commissioner put the complainant's assertion regarding Roseclaim Ltd to the Police. The Police confirmed that no correspondence exists between it and Roseclaim Ltd, specifically relating to guidance about the handling of ticket touting at the V Festival.
17. The Commissioner accepts that the searches performed by the Police to find any relevant information which may have been held were the valid and appropriate ones to perform. He also accepts the Police's explanation as to the basis of why the letters regarding V Festival were initially sent to certain individuals i.e. that any criminal activity will be monitored and policed under normal police practice (albeit that the offence was specifically related to ticket touting in this incidence). Finally, he accepts that no specific correspondence exists between Roseclaim Ltd and the Police, specifically related to ticket touting.
18. The Commissioner accepts that on the balance of probabilities, the Police do not hold the requested information.

The Decision

19. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act.

Steps Required

20. The Commissioner requires no steps to be taken.

Right of Appeal

21. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

22. 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.
23. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 13th day of June 2011

Signed

**Alexander Ganotis
Group Manager – Complaints Resolution
Information Commissioner’s Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**