

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 August 2012

Public Authority: The Chief Constable of West Yorkshire
Address: Police Headquarters
Laburnum Road
Wakefield
WF1 3QP

Decision (including any steps)

1. The complainant has requested information about revenue received by the public authority from what she termed 'private investigative services'. The public authority eventually relied on section 12 to withhold the information and the complainant did not ask it to internally review this aspect of its response. However, she did complain to the Information Commissioner about the length of time taken by the public authority to respond to her request and he finds that it did breach the Act. The Information Commissioner does not require the public authority to take any steps.

Background

2. The complainant's request can be followed on the '*what do they know*' website¹.

Request and response

3. On 14 February 2012, the complainant wrote to the public authority and requested information in the following terms:
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¹ http://www.whatdotheyknow.com/request/private_investigations

"Under the Freedom of Information Act, will you please tell me how much revenue has been received for private investigative services or other services rendered by West Yorkshire Police, apart from normal public funding. For example: private services offered to business, councils or individuals for which payment has been received by West Yorkshire Police.

Will you please provide full details of the parties for which services were rendered, and the amounts received for such services".

4. The public authority acknowledged the request on 15 February 2012. On 22 February 2012 it wrote to the complainant providing some information about Special Policing Services and asked her for further clarification, namely:

- what she meant by *"private investigative services or other services rendered"*, and
- which time frame she would like the information for.

5. In response, on 2 March 2012 the complainant stated:

"I want to know if West Yorkshire Police receive revenue of any kind for ANY kind of service, and I want to know the exact amounts.

I cannot make it any clearer.

Please respond properly to my original request, otherwise I will have to escalate this matter".

She later added:

"I don't know what it is you are refusing to understand. It is pretty simple:

WHAT PRIVATE CONTRACT WORK ARE THEY DOING FOR BUSINESS OR INDIVIDUALS FOR WHICH THEY ACCEPT FINANCIAL REMUNERATION SUCH AS PRIVATE INVESTIGATIVE WORK.

If you don't understand what "private investigative work" means, I can tell you that it means "private detective work, including surveillance"

I am requesting a full breakdown of REVENUES and their sources, plus a description of the reason for the revenue. I would like it for the years 2006 to 2011".

6. On 5 March 2012 the public authority confirmed the clarification.
7. On 29 March 2012 the public authority wrote apologising for the delay in replying.
8. On 2 May 2012 the public authority provided a response. It advised the complainant that it believed she was acting in concert with another party and that it would therefore be aggregating costs for dealing with both his and her requests for similar information. It went on to advise that to comply with the request would exceed the appropriate limit and it explained how the costs threshold would be exceeded. It also provided advice regarding vexatious requests, although it did not rely on this section.
9. On 8 May 2012 the complainant sought an internal review. She asked the public authority to consider a *"veiled threat about vexatiousness which was totally unwarranted"*, saying it was *"deliberately offensive and threatening"* as well as taking *"several months"*.
10. In its response the public authority advised her that: *"the reference in the letter to Section 14 ... was merely offered as advice"*. It stated that it was: *"sorry that [she] felt that the message was threatening"* and that *"it was certainly not the intention"*.

Scope of the case

11. On 2 May 2012 the complainant contacted the Information Commissioner to complain about the way her request for information had been handled. The Information Commissioner notes that this predates the latter request for an internal review and the public authority's response. However, as the only factor he can consider in this case is the public authority's late initial response, and this event had already occurred at the time of making the complaint, he has used his discretion and investigated this element.
12. The complainant has also raised other issues which cannot be determined by decision notice.

Reasons for decision

Section 10 – time for compliance

13. Section 10(1) of FOIA provides that a public authority should comply with section 1(1) within 20 working days. Section 1(1)(a) initially requires a public authority in receipt of a request to confirm whether it holds the requested information.
14. The request was submitted on 14 February 2012. The Information Commissioner notes that further clarification was sought, and provided, but the complainant did not receive a full response, which confirmed that provision of the information would exceed the appropriate limit, until 2 May 2012. The Information Commissioner therefore finds that the public authority has breached section 10(1) by failing to comply with section 1(1)(a) within the statutory time period.

Section 17 – refusal of request

15. Section 17(5) of the FOIA states that a public authority relying on a claim that section 12 or 14 applies must give the applicant a notice stating that fact within 20 working days of receipt of the request. In failing to do so it breached this section.
16. The public authority wrote to the complainant to extend the time for compliance with the request in order to consider the public interest in disclosure; it did not state any exemption. This is in breach of section 17(1)(b) of the Act. It ultimately relied on section 12 of the Act, which does not require a public interest test, thereby breaching section 17(3) of the Act.

Other matters

17. Although they do not form part of this decision notice the Information Commissioner wishes to highlight the following matters.
18. The complainant is unhappy that the public authority did not understand her request and believes that it *“pretended not to understand”*. The Information Commissioner has read the request objectively and believes it was prudent for the public authority to seek clarification from the complainant to ensure it was considering the correct information. For example, the request did not contain any dates

so it was not able to speculate what would satisfy the request without making further enquiries.

19. The complainant also stated to the Information Commissioner that she was complaining mostly about what she perceived to be *"threats about their intent to accuse me of being vexatious"* saying this was *"offensive"*.
20. The Information Commissioner would like to clarify to the complainant that it is a request that is 'vexatious', not the requester. Bearing in mind that the request was not actually classed as being 'vexatious' in this case, he considers it good practice for the public authority to explain to the complainant regarding what its future intentions may be in relation to subsequent requests received. He further notes that the public authority cited directly from his own guidance, providing the complainant with links to the same.

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,
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

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.

Signed

Jon Manners
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