

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 February 2016

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 information relating to locations at which child sexual exploitation had taken place. West Midlands Police (WMP) withheld this information under the exemption provided by section 30(1)(a) (information held for the purposes of an investigation) of the FOIA.
2. The Commissioner's decision is that WMP cited section 30(1)(a) correctly and so it was not obliged to disclose this information.

Request and response

3. On 8 September 2015, after having previous similar requests refused under section 12(1) of the FOIA, the complainant wrote to WMP and requested information in the following terms:

"I would be grateful if the force could...locate and extract the recorded location for every recorded sexual offence with a CSE [child sexual exploitation] marker."

4. After a short delay, WMP responded on 9 October 2015. It stated that the request was refused and cited the exemptions provided by sections 30(1)(a) (information held for the purposes of an investigation) and 40(2) (personal information) of the FOIA.

5. The complainant responded on 14 October 2015 and requested an internal review. WMP responded with the outcome of the review on 24 November 2015. The conclusion of this was that the refusal of the request under the exemptions cited previously was upheld.

Scope of the case

6. The complainant contacted the Commissioner on 1 December 2015 to complain about the refusal of his information request. The complainant indicated that he did not agree with the citing of exemptions by WMP.
7. During the investigation of this case, WMP disclosed some information to the complainant that, whilst not the specific information requested, was on similar subject matter to his information request. This information showed the type of location where child sexual exploitation (CSE) had occurred and a broad geographical location, broken down by year. For example, this showed that there had been two instances of CSE in "Terrace – Dwelling"s in Coventry during 2012. Following the disclosure of this information, the complainant confirmed that he wished to continue with this case and for a decision notice to be issued in relation to his original information request.
8. In correspondence with the Commissioner, WMP stated that the information that continued to be withheld was in "*the vast majority of cases...the address of the victim/offender*", or other locations from which it believed an individual could be identified. In relation to this information, it cited section 40(2), as well as 30(1)(a). The remaining withheld information was location records from which WMP did not believe it would be possible to identify an individual. In relation to that information, it relied on section 30(1)(a) only.

Reasons for decision

Section 30

9. Section 30(1)(a)(i) provides an exemption for information that has at any time been held by the public authority for the purposes of any investigation which the public authority had a duty to conduct with a view to it being ascertained whether a person should be charged with an offence. Section 30(1)(a)(ii) provides the same in relation to investigations into whether a person charged with an offence is guilty of it.

10. This is a class based exemption, which means that the information only has to fall within either class described in section 30(1)(a) to be exempt. It is not necessary to show that disclosure of the information would be harmful to investigations; if the information would conform to either description given in section 30(1)(a), the exemption is engaged.
11. This exemption is qualified by the public interest. This means that if the exemption is engaged, it is necessary to go on to consider whether the public interest nonetheless favours disclosure of the information. If the public interest in the maintenance of the exemption does not outweigh the public interest in disclosure, the information must be disclosed.
12. As to whether the exemption is engaged in this case, the reasoning of WMP for this was simply that the information had been recorded for the purposes of a criminal investigation and therefore was held for the purposes of an investigation relevant to section 30(1)(a)(i) and / or (ii). The Commissioner agrees; the wording of the request makes clear that any information falling within its scope would have been held for the purposes of an investigation into CSE related offences and, therefore, would fall within the classes described in section 30(1)(a). This exemption is, therefore, engaged.
13. Having found that the exemption is engaged, the next step is to consider the balance of the public interest. In forming a view here, the Commissioner has taken into account the general public interest in the openness of WMP, as well as factors that apply in relation to this specific information.
14. Covering first factors in favour of disclosure of this information, the Commissioner recognises that CSE is a matter of considerable public concern and that, on this basis, there is a general public interest relating to disclosure of information on this subject matter. This disclosure would be in the public interest in order to develop public knowledge on the work of the police in this area, in particular the action that is being taken to counter crime of this nature.
15. His view on the specific information in question here, however, is that there is limited public interest in its disclosure. The complainant argued that disclosure *"would increase the chance of successful prosecutions, bringing further charges and making arrests"*. He also referred to WMP having disclosed information on this subject matter previously having recognised the public interest in information on this subject.

16. The Commissioner notes that WMP has indeed recognised the public interest in information relating to CSE and its work in this area, both when disclosing some information to the complainant in this case, and when disclosing information in response to previous requests¹. He does not, agree, however that this indicates further public interest in the specific information in question here.
17. The information in question is the precise recorded location associated with CSE markers. WMP has stated that in most cases this information is home addresses. The Commissioner does not agree with the complainant that disclosure of this information would have any positive impact on the numbers of charges, prosecutions or arrests and so does not accept that there is any valid public interest in disclosure on that basis. Indeed, as covered below, the Commissioner's view is that disclosure of this information could actually have a detrimental impact upon investigations. Whilst the Commissioner recognises that there is significant public interest in general in information relating to police efforts to combat CSE, he does not believe there is any further public interest in disclosure of the information in question here.
18. Turning to factors that favour maintenance of the exemption, the processes that section 30 is designed to protect are a central consideration here. As stated in the Commissioner's published guidance on this exemption², this includes ensuring "*the effective investigation and prosecution of offences*". For the following reasons the Commissioner's view is that disclosure of the information in question could jeopardise investigations and prosecutions.
19. First, disclosure could alert perpetrators of CSE offences they have been the subject of a complaint to the police. If an individual was unaware that they had been reported to the police, disclosure of an exact address associated with their offending clearly could alert them to this. This in turn could lead to them taking measures to evade investigation and prosecution.
20. Secondly, the police need to be able to give assurances to those who supply information to them that their privacy will not be compromised. This is particularly the case in relation to sexual offences, where there is a noted reluctance by victims to report such crimes. Disclosure of

¹ <http://foi.west-midlands.police.uk/?s=CSE>

² <https://ico.org.uk/media/for-organisations/documents/1205/investigations-and-proceedings-foi-section-30.pdf>

information that includes the home addresses of victims would clearly be an invasion of the privacy of the victims. The Commissioner also recognises that disclosure of the remainder of the information, from which it would not be possible to identify any individual, could nonetheless create the impression that information provided by victims or witnesses of crime to the police may be subject to disclosure. The Commissioner believes that there is clear potential for disclosure of the information in question to disrupt the flow of information to the police and, therefore, to jeopardise the investigation and prosecution of offences.

21. As the Commissioner's view is that disclosure of the information in question could jeopardise investigations and proceedings, his view is that there is also a very significant public interest in avoiding that outcome. This is a factor in favour of maintenance of the exemption in this case of considerable weight.
22. In conclusion, the Commissioner has recognised that there is public interest in information about police efforts to combat CSE, although he does not accept that there is any further public interest in disclosure of the specific information in question. Weighed against this is the considerable weight described above of the public interest in favour of maintaining the exemption. The finding of the Commissioner is that the public interest in the maintenance of the exemption clearly outweighs the public interest in disclosure and so WMP was not obliged to disclose this information.
23. In view of this finding, it has not been necessary to go on to also consider section 40(2).

Right of appeal

24. 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>

25. 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.
26. 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

Ben Tomes
Senior Case Officer
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