

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 September 2020

Public Authority: Crown Prosecution Service
Address: 102 Petty France
London
SW1H 9EA

(email: IAT@cps.gov.uk)

Decision (including any steps ordered)

1. The complainant requested information about the costs incurred by the Crown Prosecution Service in relation to a specified set of proceedings. The Crown Prosecution Service neither confirmed nor denied whether it held the requested information, citing the exemption at section 40(5) FOIA (personal information).
2. The Commissioner decided that all the information that had been requested would, if held, be the complainant's own personal data. She therefore found that the Crown Prosecution Service was not obliged to supply any information under FOIA as any information it held falling within the scope of the request would attract the absolute exemption at Section 40(1) FOIA.
3. Accordingly the Commissioner did not require the Crown Prosecution Service to take any steps.

Request and response

4. On 8 January 2020, the complainant wrote to the Crown Prosecution Service ("CPS") and requested information in the following terms:

"The internal and external CPS costs of the prosecution and trial of [complainant's name redacted] regarding Breach of Non Molestation orders.

Both cases please".

5. On 28 January 2020, CPS replied and refused to confirm or deny holding the requested information relying on the section 40(5)(a) FOIA (personal information) exemption.
6. On 12 February 2020 CPS confirmed its decision following an internal review.

Scope of the case

7. On 14 February 2020 the complainant contacted the Commissioner to complain about the way his request for information had been handled. He made clear to the Commissioner, as he already had to CPS, that he was not concerned if CPS needed to put any of his personal data into the public domain in order to provide the information he had requested.
8. The Commissioner's duty is to decide whether or not a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 FOIA which is concerned with transparency of information held by public authorities. It gives an individual the right to access recorded information held by public authorities (other than their own personal data) unless it is otherwise exempt from disclosure. FOIA does not require public authorities to generate information, to answer questions, to provide explanations or give opinions, unless it is in the form of recorded information that they already hold.

Reasons for decision

Section 40 – personal information

9. In addition to FOIA, the Commissioner is responsible for regulating data protection legislation. As such, she takes account of the need to protect personal data when considering whether such information may be

disclosed under FOIA. Accordingly she will intervene and apply exemptions herself to prevent the disclosure of personal data where she considers it necessary, to avoid a breach of data protection legislation.

10. Section 40(1) FOIA states that:

"Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject."

11. Section 2(2) of the Data Protection Act 2018 defines personal data as:-

"any information relating to an identified or identifiable living individual."

12. In this particular case, any relevant information which CPS held would relate to costs in respect of the complainant's own proceedings. It would therefore be the complainant's personal data and so would be exempt from disclosure under section 40(1) FOIA.

13. As section 40(1) FOIA is an absolute exemption, there is no requirement for the Commissioner to consider the balance of public interest. As the exemption would be engaged in respect of any information CPS held which came, or would have come, within the scope of the request CPS is not obliged to supply any information held in response.

Other matters

14. The Commissioner understands that the complainant has also requested the same information by means of a Subject Access Request to CPS. However that is a distinct matter which is not subject to FOIA; consideration of it therefore lies outside the scope of this decision notice.

Right of appeal

15. 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@justice.gov.uk

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

16. 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.
17. 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

Dr R Wernham
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF