

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 May 2012

Public Authority: The Chief Constable of Durham Constabulary
Address: Police Headquarters
Aykley Heads
Durham
DH1 5TT

Decision (including any steps)

1. The complainant has requested information about any forensic service provider used by the public authority and details of the service provided. The public authority confirmed who the provider was but stated that it did not hold any further information. The complainant asked it to contact the provider and ascertain this information; the public authority advised that it was not required to do so under the FOIA. The Information Commissioner's decision is that the public authority acted correctly. He does not require the public authority to take any steps.

Background

2. The complainant has made several related requests to various police forces. The Information Commissioner is considering four complaints in relation to these requests, the other case reference numbers being: FS50426097, FS50441123 and FS50440482.

Request and response

3. On 9 May 2011, the complainant wrote to public authority and requested information in the following terms:

"Please supply the following for each forensic service provider ("FSP") used by you to conduct PACE DNA testing:

- *The date you commenced using each FSP for this purpose;*
- *Details of all of the individual machines used by each FSP as it handles and complies with requests to process your PACR DNA sample. Including the manufacture and model numbers in question; and,*
The external procedures used by each FSP to comply with your request for an Exceptional cases ("EC") deletion. For the avoidance of doubt this is not a request for a copy of the ECP form but the internal procedures used within the relevant organisation".

4. The public authority responded on 23 May 2011. It advised the complainant that it used the Forensic Science Services (the "FSS") but that it held no further information.
5. On 23 May 2011 the complainant asked for an internal review, explaining why he believed that the public authority should 'obtain' the requested information from the FSS.
6. On 23 June 2011 the public authority responded stating that it was not obliged to obtain the information.

Scope of the case

7. On 17 November 2011 the complainant initially contacted the Information Commissioner to complain about various issues surrounding a number of information requests and the handling of his personal data. Following further clarification, several complaints were set up.
8. The complainant has raised various issues which the Information Commissioner is not able to consider by way of a decision notice, many concerning the processing of his personal data and the way he believes the public authority has handled his requests under FOIA. The Information Commissioner has further elaborated on some of these issues in "*Other matters*" at the end of this notice.
9. The complaint that the Information Commissioner will consider in this case is whether or not the public authority is required to obtain information it does not already hold. He is not considering whether or not the public authority actually holds any further information as this is not an issue which was raised by the complainant either when

requesting an internal review or when contacting the Information Commissioner.

Reasons for decision

Section 1 – general right of access to information

10. Section 1(1) of the FOIA 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 the information of the description specified in the request, and*
- (b) *if that is the case, to have that information communicated to him."*

11. Although the Information Commissioner understands the complainant's concerns relating to the public authority's use of the FSS and what he believes are serious shortfalls, there is no requirement under FOIA for the public authority to satisfy a request by corresponding with another party in order to obtain information that it does not already hold in its own right. Whilst the complainant's concerns might be well-founded, and disclosure of the requested information might be in the public interest, the Information Commissioner has no jurisdiction in requiring a public authority to do anything other than what is required by the FOIA. Consequently, he concludes that the public authority is not required to seek out information that it does not already hold.

Other matters

12. Although they do not form part of this decision notice the Information Commissioner wishes to highlight the following matters.

The handling of the request / internal review

13. The complainant has expressed dissatisfaction at the way he believes the public authority has handled his request at both refusal stage and internal review stage, stating: "*... as independent organisations the forces should be handling their own request, responses and internal reviews*". Unfortunately, how a public authority chooses to deal with its responsibilities under FOIA is not something which the Information Commissioner can consider under section 50 as there is nothing in the legislation which stipulates any such constraints.

14. Additionally, the Information Commissioner notes the complainant's concerns about the handling of his personal data. However, such concerns fall within the Information Commissioner's role as regulator of the DPA and, where raised, he will write to the complainant about these separately.

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: 0116 249 4253
Email: informationtribunal@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

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.

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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