

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 7 October 2015

**Public Authority:** The Office of the Police and Crime  
Commissioner for Lancashire

**Address:** PO Box 653  
Preston  
PR2 2WB

### **Decision (including any steps ordered)**

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1. The complainant requested minutes of Lancashire Police and Crime Commissioner's (LPCC) Strategic Scrutiny meetings. LPCC withheld information within the scope of the request on the basis that section 22 of FOIA (information intended for future publication) applied. It subsequently published that information.
2. The complainant disputes that the published information is the information she requested. The Commissioner has investigated LPCC's response to the request.
3. The Commissioner's view is that the published information is within the scope of an objective reading of the request and as this information has already been made public the Commissioner does not require the LPCC to take any steps as a result of this decision notice. However, he finds that LPCC breached section 17(1) of FOIA by failing to issue a valid refusal notice within the statutory time limit.

### **Request and response**

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4. On 6 January 2015 the complainant wrote to LPCC and requested a number of pieces of information. Her complaint in this case relates to question 6 of that correspondence, namely:

*"Q6. The last minutes available for the Strategic Scrutiny Meeting on your website are for June 2013. Please could this be updated so*

*that the minutes for the rest of 2013 and 2014 are publically available?"*

5. LPCC responded on 5 February 2015. It told her that all the minutes of the Scrutiny meetings were available apart from those for the meetings in June 2014 and October 2014.
6. The complainant requested an internal review of LPCC's handling of Q6 on 18 February 2015.
7. Following further correspondence, LPCC wrote to her on 9 April 2015. It provided a summary of which meeting notes were available on its website and where they could be found. It accepted that the complainant had previously been provided with misleading/inaccurate information in that respect.
8. It revised its position regarding the remaining information within the scope of the request, namely a record of the meetings in December 2013, March 2014 and October 2014, citing section 22 of FOIA (information intended for future publication). It also advised the complainant that the information was due to be published by 15 May 2015 and told her:

*"I therefore will ensure you are provided with an e-mail to indicate when the website has been fully updated.*

9. On 15 May 2015, LPCC wrote to the complainant confirming that the website had been updated.

### **Scope of the case**

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10. The complainant contacted the Commissioner on 25 June 2015 to complain about the way her request for information had been handled. She told the Commissioner:

*"After waiting 4 months and 9 days, the information I have been provided with is not the information I requested and I have encountered some very poor and questionable behaviour along the way".*

11. In the course of her correspondence with the Commissioner the complainant raised a number of issues which are outside the scope of the Commissioner's remit. 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 (FOIA).

12. The Commissioner wrote to the complainant explaining that - as the requested information has been made public by virtue of it being published on its website - LPCC was no longer relying on section 22 in this case.

13. In response, the complainant said:

*"I complained to the ICO because I do not believe the staff at the LPCC handled my request for information correctly and I have not been given the information I requested...."*

*I have still not been provided (via the LPCC website) with the minutes to the Strategic Scrutiny Meetings despite submitting a FOIA...."*

*If the LPCC was unable to provide me with the minutes I requested, as they did not hold "minutes" to these meetings then they should have told me this at the beginning of my request".*

14. She requested that the Commissioner issue a decision notice.

15. The analysis below considers LPCC's handling of the request for the disputed information – specifically whether the 'notes' published by the LPCC are within the scope of the request for 'minutes'. This decision notice does not include any analysis of whether or not the requested information was correctly withheld using the exemption under section 22(1) of the FOIA because it has been disclosed.

## **Reasons for decision**

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### *Section 1 General right of access*

16. Section 1 of FOIA states:

*"(1) 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".*

17. In this case, the complainant disputes that the information that has been provided is the information she requested. She told the Commissioner:

*"On 15th May I was advised that 'notes' of the meetings had been published on the website. I did not ask for 'notes' of the meetings. I specifically asked for 'minutes'".*

18. Mindful of the wording of the request in this case, and the different terminology used by the parties, the Commissioner has considered whether the request may have had more than one possible interpretation.

19. By way of explanation about its handling of the request, LPCC told the Commissioner:

*"The Office took the sensible and reasonable view that [the complainant] wished to access the records for these meetings which were not populated. The Office did not distinguish between notes or minutes when responding to [the complainant], instead it complied with its duty to assist the requester and subsequently documentation was provided. It is accepted the Office could have indicated to [the complainant] that it did not have "minutes" but had "notes", however this seems very pedantic, especially when "minutes" and "notes" in terms of terminology were used interchangeably. The Office merely endeavoured to provide [the complainant] with the documents she required".*

20. LPCC also told the Commissioner:

*"The position of the Office is that it always intended to publish a record (minute/note) of the meetings for which such information was held".*

21. The Commissioner accepts that, with respect to the summary of proceedings of a meeting, the words 'minutes' and 'notes' can be used interchangeably, as they have been here.

22. While appreciating the complainant's frustration in this case, having considered the matter the Commissioner is satisfied that LPCC's interpretation of the request was reasonable and that its use of the word 'notes' rather than 'minutes' is not an indication that it failed to correctly identify the information it holds within the scope of the request. He is therefore satisfied that it complied with its obligations under section 1 of FOIA.

#### *Procedural matters*

23. Section 17(1) of FOIA states that:

*"A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II*

*relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which—*

*(a) states that fact*

*(b) specifies the exemption in question, and*

*(c) states (if that would not otherwise be apparent) why the exemption applies”.*

24. In light of the above, the Commissioner finds that LPCC breached section 17(1) of FOIA by failing to provide the complainant with the details required by that section within the statutory time limit.

## Right of appeal

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25. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

26. 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.
27. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**