

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

### **Decision notice**

**Date:** 14 December 2022

**Public Authority:** The Office of the Durham Police and Crime Commissioner (OPCC)

**Address:** Durham Police Headquarters  
Aykley Heads  
Durham DH1 5TT

### **Decision**

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1. The Commissioner's decision is that, on the balance of probabilities, the OPCC does not hold the requested information about the Labour party's use of Durham Miners' Hall and has complied with section 1(1) of FOIA. The Commissioner does not require the OPCC to take any steps.

### **Request and response**

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2. The complainant submitted their request to the OPCC on 20 May 2022. Given its length it is reproduced in the appendix to this notice.
3. The OPCC's final position was that the only information it holds of any relevance to one part of the request is two published press statements and that it does not hold information within scope of the remaining three parts.

### **Reasons for decision**

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4. This reasoning covers whether, on the balance of probabilities, the OPCC holds recorded information within scope of the complainant's request.

5. Under section 1(1) of FOIA a public authority must communicate requested information to an applicant if the authority holds the information and it is not exempt from disclosure.
6. Part 3 of the request concerned whether the Police and Crime Commissioner had visited an event at Durham Miners' Hall on a particular date. If they had, the complainant was seeking related, recorded information. In its correspondence with the complainant and to the Commissioner the OPCC advised that no one from the OPCC, including the Police and Crime Commissioner, had visited the Miners' Hall on that date. Other than the related two press statements already in the public domain, the OPCC says it does not hold any other information within scope of part 3.
7. Regarding the remaining three parts of the request, the OPCC has advised that, in response to the complaint to the Commissioner, it has again undertaken searches – for the period 1 April 2021 to 1 November 2021 with regard to parts 1 and 2 – and can confirm that it does not hold any information relevant to these two parts.
8. The OPCC has provided the Commissioner with the following to support its position:
  - The time period covered by the request covered the pre-election period when Durham OPCC had an unelected Acting PCC due to the death of the elected PCC, Ron Hogg. The election on 6 May 2021 resulted in a new PCC - Joy Allen.
  - The OPCC team searched physical business records, the business email history of both PCCs and team members able to compose/receive correspondence and the equivalent social media history (OPCC business Facebook, Twitter and Instagram accounts) and any OPCC team WhatsApp groups.
  - The OPCC repeated the search of both PCCs' electronic and physical correspondence as well as anyone able to receive correspondence and communication on their behalf, including business email and social media. This search identified no communication from the named persons and posts identified by the complainant in part 1 of their request to either of the PCCs (or anyone able to receive correspondence and communication on their behalf).
  - The OPCC repeated the search of both PCCs' electronic and physical correspondence as well as anyone able to compose correspondence and communication on their behalf, including business email and social media. This search identified no

communication from either PCC (or anyone able to compose correspondence and communication on their behalf) to the named persons and posts identified by the complainant in part 2 of their request.

- As a consequences of the OPCC's repeated searches the OPCC can confirm that it has not destroyed any information relevant to any of the complainant's questions, which in turn confirms the 'nil response' to part 4 of the request.
9. The OPCC acknowledged that one step that it had overlooked at the point of the original response and internal review decision-making stage was to request all OPCC personnel, including the PCC and Deputy PCC, to provide evidence of any relevant information to the complainant's questions that might be held on their personal devices.
  10. To address this, on 17 November 2022 it sent an email to the PCC, Deputy PCC and 10 colleagues able to compose/receive correspondence and communication on their behalf. Each responded to confirm that they did not hold any relevant information.
  11. The complainant has told the Commissioner that they do not accept that the OPCC does not hold any information within scope of their request. That may be the case but they have not presented any evidence, in their complaint to the Commissioner or in their request for an internal review, to suggest that the OPCC **does** hold relevant information. In the absence of any such evidence, the Commissioner accepts the OPCC's position. He considers that, with the new search it has now carried out, the searches it has undertaken were appropriate and satisfactory. The Commissioner's decision is therefore that, on the balance of probabilities, the OPCC holds no further information other than the two published press statements and has complied with section 1(1) of FOIA.

## Right of appeal

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

13. 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.
14. 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

**Cressida Woodall**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**

## APPENDIX

"Please note that except for question four I am only interested in information generated between 1 April 2021 and 1 November 2021.

Please note that the references to individual Labour party figures in the questions below should include the individuals themselves as well as any other individuals who are able to compose correspondence and communications on their behalf.

Please note that the reference to the Police and Crime Commissioner in the questions below should include the Police and Crime Commissioner (whoever was in post between 1 April 2021 and 1 November 2021) as well as anyone able to compose correspondence and communication on their behalf.

Please note that the reference to correspondence and communication in the questions below should include all traditional forms of correspondence such as letters, memos and faxes, all emails irrespective of whether they were sent/received through official and private accounts, all text messages, all G-mail messages and all messages sent through encrypted messaging services including but not limited to WhatsApp.

Please provide the copies of any actual correspondence and communication rather than just excerpts from that correspondence and communication. I would like to receive the correspondence and communication together with any original letter heads, other original design features and the signatures. If you feel the need to redact material, can you redact the material where that material appears in the original correspondence and communication. Can you redact it in a way so I will be able to tell how many words and or sentences and or paragraphs have been redacted. That way I will be able to judge the location and extent of any redaction.

Please redact the names and personal details of police officers, any junior pcc employees and any members of the public from any documents disclosed.

Please note that my request concerns the use of Durham Miners Hall (aka Redhills) by members of the Labour party including but not limited to Sir Keir Starmer and Angela Rayner on 30 April 2021. You will be aware that the use of this building is now at the centre of a controversy known as 'Beergate'

1....During the aforementioned period did any of the following individuals and organisations write to and or communicate with the police and crime commissioner about the Labour party's use of the building on 30 April 2021 and or the presence in the building of Labour party figures including but not limited to Sir Keir Starmer and or Angela Rayner on 30 April 2021. I am interested in all correspondence and communication which either mentions and or which in any way refers to the use of the building by Labour party figures including but not limited to Sir Keir Starmer and or Angela Rayner on

the day. (This will also include but will not be limited to the subsequent controversy generated by the use of the building on that day). It will also include but will not be limited to contacts and communications about who was/would be in attendance in the building on the day and or catering arrangements for the day. If the answer is yes, can you, please provide copies of this correspondence and communication.

- (i)...Mary Foy MP
- (ii)...Sir Keir Starmer MP.
- (iii)..Angela Rayner MP.
- (iv)..Any employee and or representative of Durham Miners Association.
- (v)...The Chair of Durham Labour party.

2...During the aforementioned period did the Police and Crime Commissioner write to and or communicate with any of the individuals and organisations listed in question one about the Labour party's use of the building on 30 April 2021 and or the presence of Labour party figures in the building including but not limited to Sir Keir Starmer and or Angela Rayner on 30 April 2021. I am interested in all correspondence and communication which either mentions and or which in any way refers to the use of the building by Labour party figures including but not limited to Sir Keir Starmer and or Angela Rayner on the day. (This will also include but will not be limited to the subsequent controversy generated by the use of the building on that day). It will also include but will be limited to contacts and communications about who was / would be in attendance in the building on the day and or the catering arrangements for the day. If the answer is yes, can you, please provide copies of this correspondence and communication.

3...Did the Police and Crime Commissioner visit Durham Miners Hall aka Redhills on 30 April 2021. If the answer is yes, can you please provide copies of any documents held which refer to this visit. These documents could have been created prior to the visit taking place and or they could have been generated after the visit had taken place. If photographic or video footage of the Police and Crime Commissioner's visit is held, can you, please provide copies of these photographs and this video footage. Please do not redact or censor images of members of the shadow cabinet from any of the footage or photographs.

4...Since 30 April 2021 has any information (including correspondence and or communications and or video footage and or photographs) relevant to any and or all the above questions been destroyed. If the answer is yes, can you, please provide the following details. In the case of each piece of information which has been destroyed can you state when it was destroyed and why. In the case of each piece of correspondence and communication which has been destroyed can you please identify the authors and recipients of the correspondence and communication. In the case of each piece of

correspondence and communication which has been destroyed can you please provide a brief outline of its contents. If any destroyed information (including correspondence and or communications and or video footage and or photographs) continues to be held in another form, can you, please provide copies of that information.”