

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 February 2023

Public Authority: Chief Constable of Surrey Police
Address: PO Box 101
Guildford
Surrey
GU1 9PE

Decision (including any steps ordered)

1. The complainant has requested an audio recording of an interview which Surrey Police (the Police) conducted with Jimmy Saville. The Police refused to disclose the requested information under section 14(1)(vexatious requests) and section 38(1)(health and safety) of FOIA.
2. The Commissioner's decision is that the Police correctly relied on section 14(1) to refuse the request. However, the Police breached section 17 as it failed to provide its refusal notice within the statutory 20 working days.
3. The Commissioner does not require the Police to take any further steps as a result of this decision.

Request and response

4. On 11 October 2022, the complainant wrote to the Police and requested information in the following terms:

"I would like to request a copy of the audio recording of the Jimmy Saville interview you conducted with him in 2009."
5. The Police responded on 5 December 2022. It stated that it does hold the requested information, but refused to comply with the request by virtue of section 14(1) and section 38(1) of FOIA.

6. Following an internal review the Police wrote to the complainant on 16 December 2022. It maintained its reliance on section 14(1) and section 38(1) to refuse the request.

Reasons for decision

7. The Commissioner considers that this request for information is a follow on from an earlier request where the complainant sought a video recording of the same interview of Jimmy Saville by the Police. That request resulted in a decision notice (IC-137214-X9T9¹) which found that a video recording does not exist. The decision notice in that case also went on to direct the complainant to an earlier decision notice (FS50526275²) which found a request for the audio recording could be refused under section 14(1). The Commissioner explained in IC-137214-X9T9 that, despite the passage of time, he is not aware of any circumstances which might lead him to alter the position set out in FS50526275, and that he therefore considered it unlikely that a fresh request for the audio recording would be likely to succeed.
8. Despite receiving that advice from the Commissioner, the complainant went on to make this request for the audio recording on the same day.
9. The Commissioner has considered the arguments put forward by the complainant, however he is not persuaded by them, and his position in respect of the audio recording has not changed. If anything, the reasons for refusing will only have strengthened as the passage of time may mean that the Police will need to redo the previous work of applying redactions and informing affected parties. Therefore, for the reasons set out in FS50526275, the Commissioner finds that the Police correctly relied on section 14(1) of FOIA to refuse this request.

¹ <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4022139/ic-137214-x9t9.pdf>

² https://ico.org.uk/media/action-weve-taken/decision-notices/2014/1020038/fs_50526275.pdf

Right of appeal

10. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

11. 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.
12. 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

Roger Cawthorne
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Information Commissioner's Office
Wycliffe House
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Wilmslow
Cheshire
SK9 5AF