



**First-tier Tribunal  
(General Regulatory Chamber)  
Information Rights**

**Appeal Reference: EA/2016/0305**

**Heard at Worcester  
On 24th. April, 2017**

**Before  
Judge  
David Farrer Q.C.**

**Tribunal Members**

**Jean Nelson  
and  
Gareth Jones**

**Between**

**Jeremy Geere**

**Appellant**

**and**

**The Information Commissioner ("The ICO")**

**Respondent**

Mr. Geere appeared in person.

The ICO did not appear but made written submissions.

## Decision and Reasons

The Decision Notice (“the DN”) was in accordance with the law. West Mercia Police (“WMP”) did not hold the requested information and thus complied with FOIA s.1. The appeal is dismissed. The Tribunal does not require WMP to take any further steps.

1. It is hard to see what interest, public or private, was served by the pursuit of this appeal.
2. The substantive law and procedural requirements for police searches are contained in the Police and Criminal Evidence Act, 1984 (“PACE”) and PACE Code B, for which PACE makes provision and which has been modified from time to time. Paragraph 9.1 of the 2013 PACE Code B requires that specified records of police searches be held in a “search register” to be maintained at “*the sub- divisional or equivalent police station*”.
3. On 13<sup>th</sup>. June, 2016, following earlier broadly similar requests, Mr. Geere made a request for information to WMP regarding records of searches, in the following terms -
  - 1 *Please provide the information requested below in relation to the sub – divisional or equivalent police station covering Droitwich* – (Evidently, a reference to PACE Code B)
  - 2 (Defined the period covered by the request, offering alternatives by reference to cost threshold and protection of personal data.)
  - 3 (Requested the number of searches recorded in the search register, the times of searches and how many drew blanks.)
  - 4 (Requested the breakdown of costs involved in providing this information.)

Paragraphs 2, 3 and 4 are summarised because the outcome of this appeal depends on the proper interpretation of paragraph 1 of the request.

4. On 5<sup>th</sup>. July, 2016 Mrs. Williams of the Information and Compliance Unit for WMP and Warwickshire Police replied, saying that WMP held no information within the scope of the request. That evidently meant that there were no search records relating to the specified area and period. She provided a website link in relation to Request 4 and that features no further in this appeal.

5. On 8<sup>th</sup>. July, 2016 she further stated that all Worcestershire search records were held at Worcester Police Station.
6. On 26<sup>th</sup>. July, 2016, Mr. Geere sought an internal review of the decision relating to Request 1. Furthermore, he stated that, if the Droitwich records were indeed held in Worcester, then his request related to all Worcestershire records held in the Worcester Search Register. On 10<sup>th</sup>. August, 2016, WMP responded by maintaining its denial, making no reference to the geographical scope of the request nor to the highly offensive character of Mr. Geere's email of the same date. On 12<sup>th</sup>. August, 2016 Mr. Geere complained to the ICO.
7. Further requests followed between September and December, 2016. They resulted in disclosure of the total number of searches recorded at Worcester for all relevant districts, broken down by local authority area and, in part, by smaller town, village or parish and covering the first half of 2016. This disclosure confirmed that there were no January search records for Droitwich. Mr. Geere told WMP that this information was required for the presentation of this appeal but the provision of the information rendered the appeal entirely unnecessary, even if Mr. Geere's claim as to the interpretation of his original request was correct. A successful appeal could have no practical value and FOIA jurisprudence was unlikely to be enriched by our decision on the proper construction of the request.
8. The DN, dated 16<sup>th</sup>. November, 2016 upheld WMP's denial and referred to the steps it had taken to respond to the request. It did not fully address the issue: - Was the request confined to searches in Droitwich or did it extend to all the districts whose records were held at Worcester ?
9. Mr Geere relied on the wording of paragraph 9.1 and the literal terms of his request – *“Please provide the information requested below in relation to the sub – divisional or equivalent police station covering Droitwich”*. That meant what it said – he wanted whatever the Worcester register contained.
10. The test for interpreting the scope of a request is, in our opinion, “How would the responding officer of the authority be expected to construe it, in all the circumstances of the request, including any previous history?”

11. Here it may be assumed that she was familiar with the relevant requirements of Code B and would be aware that the Worcester register contained records relating to other parts of the county.
12. She would note that the only district referred to in the request was Droitwich. She could reasonably assume (as was evidently the case – see §§5 and 6 and his submission of 24<sup>th</sup>. April, 2017) that Mr. Geere was unaware, at the time of his request, that Droitwich search records formed just part of a register covering several districts. If his target was all Worcestershire search records or those for, say, South Worcestershire, there was no obvious reason to specify Droitwich. Droitwich police station, although previously due for closure, had been kept open for all but front - counter services, hence, from the standpoint of a local resident, could perfectly well be the sub – divisional or equivalent police station for the purposes of the Search Register records of Droitwich.
13. Finally, it emerged in evidence that this sequence of inquiries from Mr. Geere had sprung from an incident involving a firearm which occurred in Droitwich and led to a request for information dated 20<sup>th</sup>. May, 2016, also handled by Mrs. Williams of the Information Compliance Unit.
14. Taking account of those factors, we conclude that a reasonable respondent, armed with the information available to Mrs. Williams, would be expected, on a balance of probabilities, to understand the request of 13<sup>th</sup>. June, 2016 as confined to Droitwich searches, even though a literal interpretation would require a much more extensive investigation of records for a large part of the county. If Mr. Geere wanted a wider range of records, he might have been expected to make that clear or to have avoided a direct reference to Droitwich.
15. We bear well in mind the obligation to provide advice and assistance under s.16 of FOIA. We do not consider that the initial request was ambiguous or suggested a need for assistance. Its scope is what it sought when it was made, as to which we have made our finding.
16. However, the sensible course on receiving the first email of 26<sup>th</sup>. July, 2016, would have been immediately to widen the scope of the response to cover the whole Worcester register and to inform Mr. Geere that this was underway. This was done in due course by supplying the total number of records for South Worcestershire over a six month period and, later, breaking

them down as indicated at §7. This was done in December, 2016, after publication of the DN but well before the hearing of this appeal.

17. That being so, there was no useful purpose to be served by this appeal.

18. Not for the first time when evaluating the case of an appellant, we deplore the aggressive tone of some of Mr.Gere's correspondence with WMP and his wholly unfounded accusation of dishonesty (Bundle p. 78 10/8/16). It was in marked contrast with the measured and courteous conduct of his oral appeal.

19. For these reasons we dismiss this appeal.

20. This is a unanimous decision.

Signed David Farrer Q.C.

Judge of the First-tier Tribunal

Date: 22<sup>nd</sup>. May, 2017

Promulgation date 7 June 2017