

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 16 December 2010

Public Authority: Chief Constable of Nottinghamshire Police
Address: Police Head Quarters
Sherwood Lodge
Arnold
Nottingham
NG5 8PP

Summary

The complainant requested information about the Channel project, which is a counter-terrorism project that aims to intervene and assist individuals who are at risk of becoming involved in violent extremism. The public authority refused the request and cited exemptions, including that provided by section 31(1)(a) (prejudice to the prevention or detection of crime) of the Freedom of Information Act. The Commissioner finds that this exemption was applied correctly and so the public authority is not required to disclose the requested information. However, the Commissioner also finds that the public authority did not comply with all of its procedural obligations under the Act in that it failed to specify a relevant subsection for section 31(1) and did not provide an adequate explanation for the exemptions cited.

The Commissioner's role

1. 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 (the "Act"). This Notice sets out his decision.

The request

2. On 29 January 2010 the complainant made the following information request:
- "1) The total number of referrals made to the Chanel Project for vulnerable individuals at risk of violent extremism since its inception;*
- 2) the total number of those referrals who were*
- a) under 16 years old; and*
- b) under 19 years old at the time they were referred to the Chanel project;*
- 3) the total number of those referrals who were recorded by the police as being of Muslim persons and the number of those who were recorded by the police as being of non-Muslim persons;*
- 4) the total number of those referrals found to have been genuinely at risk of becoming violent extremists."*
3. The public authority issued its refusal notice on 17 February 2010. The request was refused, with the exemptions provided by sections 24 (national security), 30 (criminal investigations), 31 (prejudice to law enforcement), 40 (personal data) and 41 (information provided in confidence) cited. No subsections of any of the exemptions were specified. The public authority did not provide enough detail as to its reasoning as to why these exemptions were believed to be engaged, and did not explain why the balance of the public interest was believed to favour the maintenance of these exemptions.
4. On 23 April 2010 the complainant requested an internal review in relation to the request. The public authority provided its review decision on 24 February 2010. The refusal under sections 24, 30, 31, 40 and 41 was upheld. Again, the public authority addressed these exemptions jointly and no subsections were specified.

The Investigation

Scope of the case

5. The complainant contacted the Commissioner's office in connection with this request on 30 July 2010. The complainant indicated that he did not agree with the citing of the exemptions in response to the request.

Chronology

6. On 12 November 2010 the Commissioner enquired whether the complainant wished to withdraw his complaint in light of the decision in another case (details below), but the complainant declined to do so.

Analysis

Exemptions

7. The complainant has made identical information requests to a number of police forces, all of which have cited similar grounds for the refusal of these requests. The Commissioner has issued a previous Decision Notice in relation to identical requests made by the complainant to the Metropolitan Police Service (MPS), which can be viewed at the address below¹.
8. In that case the MPS specified the exemption provided by section 31(1)(a) (prejudice to the prevention or detection of crime) and the Commissioner focussed on this exemption in that Notice. The conclusion of the Notice was that the exemption provided by section 31(1)(a) was engaged and that the balance of the public interest favoured the maintenance of this exemption.
9. Whilst the public authority in this case did not specify a subsection of 31(1) in its correspondence with the complainant, the Commissioner considers it safe to assume that it would have cited 31(1)(a) had it been pressed on this point. For the same reasons as set out in his earlier Decision Notice, the Commissioner concludes in this case that the exemption provided by section 31(1)(a) is engaged in relation to

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http://www.ico.gov.uk/~media/documents/decisionnotices/2010/fs_50308853.ashx

the request and that the balance of the public interest favours the maintenance of this exemption. The public authority is not, therefore, required to take any steps.

The Decision

10. The Commissioner has decided that the public authority properly withheld the requested information by reference to section 31(1)(a).
11. However, it breached its procedural obligations under the Act as follows.
 - In failing to state which sub-section of section 31 it was relying upon, without providing rectification by the time of its internal review, it breached section 17(1)(b).
 - In failing to explain adequately the exemptions which it was citing, without providing rectification by the time of its internal review, it breached section 17(1)(c).
 - In failing to adequately explain why the public interest in the maintenance of sections 24(1) and 31(1)(a) was believed to outweigh the public interest in disclosure, without providing rectification by the time of its internal review, it breached section 17(3)(b).

Steps required

12. The Commissioner requires no steps to be taken.

Other matters

13. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern. Part VI of the Act's section 45 Code of Practice makes it desirable practice that a public authority should have a procedure in place for dealing with complaints about its handling of requests for information, and that the procedure should encourage a prompt decision. As he has made clear in his 'Good Practice Guidance No 5', the Commissioner has decided that a reasonable time for completing an internal review is 20

working days from the date of the request for review or, in exceptional circumstances, 40 working days. In this case the public authority significantly exceeded these timeframes. The Commissioner does not believe that any exceptional circumstances existed to justify that delay, and he therefore wishes to register his view that the public authority fell short of the standards of good practice by failing to complete its internal review within a reasonable timescale. He would like to take this opportunity to remind the public authority of the expected standards in this regard.

14. Paragraph 39 of the section 45 Code of Practice encourages authorities to provide a fair and thorough review of matters, including a fresh look at the application of exemptions. The outcome of the review in this case, as communicated to the complainant, was very limited and did not demonstrate that a full reconsideration of the factors had taken place. The Commissioner therefore considers that the public authority failed to conduct a genuine review in this case, and advises that it should ensure that future reviews are carried out in accordance with the guidelines in the section 45 Code of Practice and communicated in full.

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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

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.

16. Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is sent.

Dated the 16th day of December 2010

Signed

**Jon Manners
Group Manager**

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

Section 17(1) provides 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.'*

Section 17(3) provides that -

'A public authority which, in relation to any request for information, is to any extent relying on a claim that subsection (1)(b) or (2)(b) of section 2 applies must, either in the notice under subsection (1) or in a separate notice given within such time as is reasonable in the circumstances, state the reasons for claiming -

- (a) that, in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the authority holds the information, or*
- (b) that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.'*

Section 24(1) provides that –

'Information which does not fall within section 23(1) is exempt information if exemption from section 1(1)(b) is required for the purpose of safeguarding national security.'

Section 31(1)(a) provides that –

'Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice-

- (a) the prevention or detection of crime'*