

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date: 16 June 2011

**Public Authority:** The Commissioner of the Metropolitan Police  
**Address:** New Scotland Yard  
Broadway  
London  
SW1H 0BG

### Summary

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The complainant in January 2010 requested various items of information from the public authority. The public authority, by March 2011, had released most of the requested information. The complainant's complaint to the Commissioner ultimately focussed on the time it took for information to be released but not about the information that was ultimately withheld by the public authority. The Commissioner finds that the public authority had breached sections 10 and 17 in its handling of this request.

### The Commissioner's Role

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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

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2. On 18 January 2010 the Complainant requested from the public authority the following information:
  1. A copy of its Records Management Manual
  2. A copy of its Crime Reporting Information System ("CRIS") User Guide
  3. A copy of its CRIS Standard Operating Procedure

4. A copy of its notice containing the Custody Suite CCTV Guidance

3. As the public authority released requested information at varying times it will assist if the Decision Notice explains that chronology of events thematically.

A copy of the Records Management Manual

4. A copy of the Records Management Manual, subject to the redaction of information pursuant to section 40(2) (personal information) of the Act, was provided to the complainant on 11 February 2010.

A copy of the CRIS User Guide

5. On 11 February 2010 the public authority wrote to the complainant. It explained that it considered this information to be exempt from disclosure by virtue of section 31 (law enforcement) and that it would need further time to consider the public interest test as allowed by section 17(3). It estimated that it would inform the complainant of the outcome of the public interest test by 26 February 2010.
6. On 5 July 2010 the public authority wrote to the complainant explaining that it was not ready to provide its substantive response regarding releasing the CRIS User Guide.
7. On 23 September 2010, the public authority issued a refusal notice. On 18 October 2010 the complainant asked the public authority to review its decision.
8. On 25 November 2010, the public authority, after reviewing its decision, decided to disclose the introductory pages of the user guide but continued to withhold the remaining sections of the User guide under Section 31(1)(a) and (b) of the Act.
9. On 11 March 2011 the public authority released the remainder of the user guide save for certain redactions agreed with the complainant.

A copy of the CRIS Standard Operating Procedure

10. On 23 September 2010 the public authority informed the complainant that this information was exempt from disclosure virtue of Section 31(1)(a)(b).
11. On 25 November 2010 the public authority released some of the information contained in the CRIS Standard Operating Procedure but withheld some of it by virtue of section 31(1)(a) and (b) for

operationally sensitive information and section 40(2) for personal information.

A copy of the MPS Notice containing the Custody Suite CCTV Guidance

12. This was disclosed to the complainant on 5 July 2010 subject to the removal of certain paragraphs which were considered exempt by virtue of the provisions of sections 40(2) and 31(a) and (b) of the Act. The public authority later re-iterated this decision in correspondence to the complainant dated 25 November 2010.

## **The Investigation**

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### **Scope of the case**

13. On 5 July 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. Ultimately he did not take issue with the information it eventually withheld. The Commissioner will therefore not adjudicate on the public authority withholding requested information but will do so as to whether they procedurally complied with the Act.

### **Chronology**

14. As part of his investigation the Commissioner wrote to the public authority, on 25 January 2011, seeking answers to his questions regarding how it had handled the complainant's request for information.
15. On 4 March 2011 the public authority informed the Commissioner that upon re-considering matters it would be releasing the majority of the information it was withholding. By correspondence exchanged on 11 May 2011 the complainant confirmed that his complaint was confined to the timeliness of the public authority releasing information to him.

## **Analysis**

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### **Procedural Requirements - Time for Compliance and Refusal Notice**

16. The information request was received by the public authority on 18 January 2010 and therefore it should have released the information and/or served a valid refusal notice (for any information it was withholding) on the complainant on or before 16 February 2010. In respect of the CRIS Standard Operating Procedure and the MPS Notice, the Commissioner therefore finds the public authority breached section

- 10 (1) by releasing requested information and/or, in the alternative, breached section 17(1) by issuing a refusal notice after 16 February 2010.
17. Regarding the CRIS User Guide, the public authority informed the complainant on 11 February 2010 that though it considered an exemption to be engaged it needed, as allowed by section 17(3), further time to consider the public interest test. Ultimately it did not complete its considerations until 23 September 2010, when it issued a refusal notice.
  18. Section 17(1)(b) places an obligation upon the public authority that its refusal notice '*specifies the exemption in question*'. The Commissioner's view is that the public authority is thereby required to refer to the specific part(s) of the relevant exemption(s). In this case, in failing to specify the subsection of the exemption claimed (as outlined in paragraphs 5 above) the Commissioner has concluded that the public authority breached section 17(1)(b) of the Act in failing to supply a notice compliant with the requirements of that section within 20 working days.
  19. The Commissioner takes the view that public authorities should aim to conduct the public interest test within 20 working days. In cases where the public interest considerations are exceptionally complex it may be reasonable to take longer but in the Commissioner's view the total time taken should not case exceed 40 working days. In this case, notification of the extension to the time limit was given on 11 February 2010 but the final refusal notice was not issued until 23 September 2010. The Commissioner considers that the time which the public authority applied in order to deal with the public interest test was plainly not within any reasonable timescale and this constitutes a breach of section 17(3) of the Act.

## The Decision

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20. The Commissioner's decision is that the public authority breached sections 10(1), 17(1) and 17(3) in its handling of the request.

## Steps Required

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21. The Commissioner requires no steps to be taken.

## Right of Appeal

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22. 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: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@tribunals.gsi.gov.uk](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://www.informationtribunal.gov.uk)

23. 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.
24. 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 16<sup>th</sup> day of June 2011**

**Signed .....**

**Alexander Ganotis  
Group Manager – Complaints Resolution  
Information Commissioner’s Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**

## Legal Annex

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### General Right of Access

#### **Section 1(1) provides that -**

"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."

#### **Section 2(3) provides that –**

"For the purposes of this section, the following provisions of Part II (and no others) are to be regarded as conferring absolute exemption –

- (a) section 21
- (b) section 23
- (c) section 32
- (d) section 34
- (e) section 36 so far as relating to information held by the House of Commons or the House of Lords
- (f) in section 40 –
  - (i) subsection (1), and
  - (ii) subsection (2) so far as relating to cases where the first condition referred to in that subsection is satisfied by virtue of subsection (3)(a)(i) or (b) of that section,
  - (iii) section 41, and
  - (iv) section 44"

**Section 10(1) provides that –**

“Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.”

**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,

(a) specifies the exemption in question, and

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