

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 May 2012

Public Authority: Chief Constable of Northumbria Police
Address: Police Headquarters
North Road
Ponteland
Newcastle Upon Tyne
NE20 0BL

Decision (including any steps)

1. The complainant has requested information about confidentiality clauses, agreements and policies that the public authority's staff need to comply with as well as information about disciplinary action against its staff. The public authority initially found the request to be 'vexatious' but subsequently provided some information and also relied on the exemptions at sections 40(2) and 41(1). The complainant has not complained about the application of these exemptions so they have not been considered. The Information Commissioner has found no breaches and does not require any steps to be taken.

Background

2. The request can be followed on the "*What Do They Know*" ("WDTK") website¹.

1

http://www.whatdotheyknow.com/request/northumbria_police_staff_confide

Request and response

3. On 3 August 2011, the complainant wrote to the public authority and requested information in the following terms:

"I would like to request the following information about Northumbria Police's staff confidentiality agreements and related disciplinary actions:

1. Copies of all confidentiality clauses, agreements or policies that staff are required to abide by. Please include any non-standard clauses which apply to particular groups of staff, or individuals. I am expecting the release of any relevant standard clauses contained within employment contracts as well as relevant policies such as your whistle-blowing policy, and any rules guiding staff participation in online discussion, blogging and social networking sites.

2. The number of times Northumbria Police staff members have faced disciplinary actions or proceedings as a result of breaching these confidentiality agreements, policies and clauses.

3. A listing of these disciplinary actions broken down by the date and type of disciplinary action taken (eg verbal warning, demotion, loss of benefit, etc)

4. The number of Northumbria Police staff that have been dismissed as a result of breaching or infringing confidentiality agreements.

5. Of those i) disciplined and ii) dismissed - How many had a defence of whistleblowing?

I would like this data annually for most recent three year period (either calendar or financial depending on how you record such data).

With respect to Northumbria Police policies clauses and agreements only those that are currently in-force are being requested.

I would like to clarify that I am only seeking policies etc. relating to the staff-employer relationship ie. the rules staff agree to follow as individuals.

If one part of this request can be answered sooner than others, please [sic] supply that information while you are dealing with the rest".

4. The parties then engaged in correspondence to clarify the request.
5. The public authority responded on 9 September. It stated that it had deemed the request to be vexatious and it evidenced its findings.
6. On 11 September 2011 the complainant requested an internal review.
7. On 25 November 2011 the public authority provided its internal review. It changed its previous position and removed reliance on section 14. It then directed the complainant to its policy for "*Professional Standards Reporting*", which was available on its website, and it advised that it did not have any policies on "*social networking and staff participation on sites of this nature*". It then stated:

"In respect of providing details of these confidentiality agreements or clauses, I am unable to disclose this information to you and rely on the following exemption:

*Section 40 (2) - Personal Information
Section 41 (1) – Confidentiality".*

8. In respect of parts 2, 3, 4 and 5 of the request it advised:

"Details of staff and Officer disciplinary issues are available on the Northumbria Police website via the Disclosure Log. You will have to assess those responses which are of interest to you and answer your questions".

It provided a link to the relevant part of its website.

9. It advised that future requests, on various subject matters, would be deemed as vexatious.
10. The complainant originally passed this case to the Information Commissioner on 18 November 2011. His complaint was, at that time, that the public authority had not provided an internal review. However, the internal review was subsequently completed, so the Information Commissioner advised the complainant that he was unable to take the case forward unless the complainant supplied his grounds of complaint following this internal review. The complainant initially refused to do so, expecting the Information Commissioner to trawl through the lengthy correspondence on this (and several other complaints) on his behalf. The Information Commissioner refused to do so and closed his original complaint.

11. There is considerable further correspondence which can be followed on the WDTK website.

Scope of the case

12. On 25 February 2012 the complainant contacted the Information Commissioner again to outline his complaint. The Information Commissioner clarified with the complainant that he would address the following:
 - the length of time taken to provide an internal review;
 - whether the request is vexatious.
13. The Information Commissioner has referred to the length of time to conduct an internal review in "*Other matters*" at the end of this notice.
14. As the public authority has not relied on section 14 the Information Commissioner is unable to consider it in the body of this decision notice. However, in light of the complainant's inclusion of the issue within the scope of the complaint, he has provided some information in "*Other matters*" at the end of this notice.
15. The complainant also raised other issues which fall outside of the Information Commissioner's remit.

Reasons for decision

16. The complainant has raised a complaint concerning the citing of section 14. As the public authority had ceased to rely on this exclusion at the time of the Information Commissioner's investigation he will not investigate further whether the public authority was justified in applying the exclusion initially.

Other matters

17. Although they do not form part of this decision notice the Information Commissioner wishes to highlight the following matters.

Internal review

18. Part VI of the 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 determination of the complaint. As he has made clear in his *'Good Practice Guidance No 5'*, the Information Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by the Act, the Information Commissioner has decided that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days.

19. The Information Commissioner does not consider this case to be 'exceptional', so is concerned that it took over 20 working days for an internal review to be completed.

Vexatious requests

20. The public authority has not relied on section 14 so the Information Commissioner has not considered it in his analysis above. However, he thought it would be useful to provide the following information.
21. The Information Commissioner has produced specialist guidance on vexatious requests which can be found on his website². This includes the following extract:

"Refusing the request

If you decide that a request is vexatious or repeated, you must issue a refusal notice to the requester within 20 working days. The refusal notice should state that you are relying on section 14(1) or 14(2) and give details of your internal review procedures and the right to appeal to the ICO.

However, section 17(6) says you will not need to issue a new refusal notice if:

- you have already given the same person a refusal notice for a previous vexatious or repeated request; and*
- it would be unreasonable to issue another one.*

Refusing a request as vexatious or repeated is particularly likely to lead to an internal review or an appeal to the ICO. Whether or not you issue a refusal notice, you should therefore keep written

²http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/awareness_guidance_22_vexatious_and_repeated_requests_final.pdf

records clearly setting out the procedure you followed and your reasons for judging the request as vexatious or repeated, so that you can justify your decision to us if necessary".

22. It is clear to the Information Commissioner that the public authority is 'preparing' itself for future requests which relate to specific subject matters; this is in line with the guidance he has issued above. The Information Commissioner considers it good practice for the public authority to outline to the complainant that the requests he is making may ultimately result in them not being acknowledged as they are considered to be vexatious.

Right of appeal

23. 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@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

24. 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.
25. 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

Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF