

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 August 2016

Public Authority: Chief Constable of Warwickshire Police
Address: Police Headquarters
Leek Wootton
Warwickshire
CV35 7QA

Decision (including any steps ordered)

1. The complainant requested information relating to the handling of previous information requests by Warwickshire Police. Warwickshire Police disclosed some information and stated that some of the requested information was not held. It also failed to respond to one part of the request and asked for clarification in relation to another, which it did not respond to as the complainant did not provide the clarification sought.
2. The Commissioner's decision is that Warwickshire Police stated correctly and in accordance with section 1(1)(a) of the FOIA that some of the requested information was not held. However, it breached section 10(1) in failing to comply with one part of the request until the intervention of the Commissioner and breached sections 1(1) and 10(1) by failing to progress another part of the request as the Commissioner's view is that it did not reasonably require the clarification sought in order to identify and locate the information requested. It is now required to respond afresh to that part of the request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide a fresh response to request (4).
4. Warwickshire Police must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

Request and response

5. On 13 April 2016 the complainant wrote to Warwickshire Police and requested information in the following terms:

"(1) Please could you confirm how many FOI requests received by Warwickshire Police during the past three months have not had a response.

(2) How many of the requests were from the same requester.

(3) Please give the reason for each FOI that you have chosen to ignore and/or have not responded to.

(4) Please provide copies of all internal information, emails, notes, minutes, memos in relation to those requests which Warwickshire Police have ignored and/or have not responded."

6. Warwickshire Police responded on 14 April 2016. In response to request (1) it disclosed that there were 166 open requests at that time. In response to request (3) it stated that the reason these requests had not been responded to was as they were *"current requests and are in progress"* and also stated that no information was held relating to requests that had been ignored. In response to request (4), the complainant was asked to advise why this information had been requested and what it was to be used for. No response was provided to request (2).
7. An exchange of correspondence between the complainant and Warwickshire Police followed which led to an internal review being carried out. Warwickshire Police responded with the outcome of the review on 11 May 2016, which upheld the previous response to the requests.

Scope of the case

8. The complainant contacted the Commissioner on 14 May 2016 to complain about the way her request for information had been handled. The scope of this notice covers the failure by Warwickshire Police to respond to request (2), whether the response to request (3) amounted to a full disclosure of all information held by Warwickshire Police within the scope of that request and whether it was reasonable for Warwickshire Police to seek the clarification asked for in relation to request (4).
9. West Mercia Police and Warwickshire Police have a shared team responsible for processing information requests made to either force. This arrangement does not alter that these two forces are separate

public authorities for the purposes of the FOIA. When making her request the complainant was specific that she was seeking information from Warwickshire Police and she also specified Warwickshire Police when contacting the ICO. This case has therefore been progressed on the basis that it concerns that force.

Reasons for decision

Request (2)

10. As noted above, Warwickshire Police failed to respond to this request. Its explanation for doing so was that it was awaiting the clarification it had sought from the complainant about request (4). In the Commissioner's view, however, it was not justified for Warwickshire Police to delay responding to request (2) on the basis that it was awaiting clarification about request (4).
11. In failing to respond to request (2) within 20 working days of receipt of the request, Warwickshire Police breached section 10(1) of the FOIA. The information specified in that request was disclosed to the complainant during the Commissioner's investigation and so no further action in relation to this request is required.

Request (3)

12. In relation to this request the issue for the Commissioner is whether Warwickshire Police complied with section 1(1) of the FOIA by disclosing all information it held within the scope of this request. Where there is a dispute between the parties as to whether the public authority has identified all information it holds that is within the scope of the request, the Commissioner will consider whether on the balance of probabilities the public authority identified all relevant information. If it did, the Commissioner's conclusion will be that the public authority complied with section 1(1) of the FOIA.
13. This request asked for information on other requests that had been ignored or had yet to be responded to. The position of Warwickshire Police was that it did not ignore information requests, hence it held no information falling within the scope of that part of the request.
14. As to the view of the Commissioner, she would not expect Warwickshire Police to ignore requests for recorded information as to do so would amount to a breach of the FOIA. The complainant asserted that Warwickshire Police had ignored requests and hence should be expected to hold information within the scope of this request. There is no evidence available to the Commissioner, however, that supports this

statement from the complainant or that suggests that Warwickshire Police would hold information relating to information requests it had ignored. On the balance of probabilities, therefore, the Commissioner finds that Warwickshire Police does not hold information relating to information requests that were ignored.

15. On the issue of whether it disclosed all information on the reason for not responding to other unresolved requests, the explanation given by Warwickshire Police in response to this request was that these requests were ongoing and a response was pending. The Commissioner's view is that she would expect that any reasonably sizeable public authority will always have some ongoing information requests and is aware of no grounds to dispute that this is the information held by Warwickshire Police concerning any requests that were unanswered on the date of the complainant's information request.
16. For these reasons, the Commissioner finds that, on the balance of probabilities, Warwickshire Police identified and disclosed all information it held within the scope of request (3) and in so doing complied with section 1(1) of the FOIA.

Request (4)

17. In response to request (4) Warwickshire Police asked for clarification. The complainant did not respond with clarification and so this request remains unresolved. Section 1(3) provides that a public authority can ask for clarification about a request where it reasonably requires that clarification in order to identify and locate the information requested. The issue for the Commissioner here is whether it was reasonable for Warwickshire Police to seek clarification in this case.
18. Warwickshire Police sought clarification in its 14 April 2016 response by asking the complainant to "*advise why this information is needed and what it will subsequently be used for*". Generally the FOIA is purpose blind and it is not necessary for a requester to give any explanation for a request. However, the Commissioner's published guidance on considering the identity or motives of the applicant¹ states that it is acceptable for a public authority to enquire as to the motive of the requester where their request is ambiguous or unclear and knowledge of the requester's motive would assist in identifying the information sought.

¹ <https://ico.org.uk/media/for-organisations/documents/1043418/consideration-of-the-identity-or-motives-of-the-applicant.pdf>

19. The Commissioner has considered whether request (4) was ambiguous or unclear and hence whether it was appropriate for Warwickshire Police to seek an explanation for the complainant's motive in making this request. The Commissioner's view on this point is that this request appears clear. She also notes that Warwickshire Police included what appears an accurate summary of request (4) in its 14 April 2016 response to the complainant when it stated "*...you have requested copies of all internal information for all the current open requests*". This suggests that Warwickshire Police had no difficulty in understanding request (4).
20. For these reasons, the Commissioner's view is that the complainant's request was not ambiguous or unclear and so it was not appropriate for Warwickshire Police to seek to understand why the complainant had made that request. In refusing to comply with section 1(1) of the FOIA until the complainant had responded with clarification that the Commissioner does not agree it reasonably required in order to identify and locate the requested information, Warwickshire Police breached the requirements of sections 1(1) and 10(1) of the FOIA. At paragraph 3 above it is now required to provide a fresh response to request (4).

Right of appeal

21. 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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

22. 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.
23. 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

Ben Tomes
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