

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 August 2016

Public Authority: Commissioner of the Metropolitan Police
Service

Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant has requested information about counter terrorist training and a meeting from the Metropolitan Police Service (the "MPS"). The MPS provided some information but, in respect of one part of the request, advised that no information is held. The Commissioner's decision is that, on the balance of probabilities, no information is held. No steps are required.

Background

2. The complainant has provided the Commissioner with some background information from correspondence he has had with the Tate Gallery. It relates to an information request made to the Tate on 18 January 2016 which was dealt with under the remit of the FOIA. Within that correspondence, part of his information request is of relevance to this complaint as it confirms the existence of a meeting. He asked the Tate:

"Staff members at the Tate were invited to attend a meeting with BP's Security Team at BP's offices in St. James Square, London on Tuesday 3rd February 2015 from 1100 until 1200. I request that you disclose the following:

- a) *Whether members of the Tate's staff attended this meeting and if so, their respective role and / or position within the institution.*
 - b) *The agenda, minutes and / or an outline of that meeting, with regards to its remit and scope.*
 - c) *Any related correspondence by members of the Tate to colleagues relating to, or informed by, this meeting."*
3. The Tate disclosed the job titles of staff who had attended the meeting and also provided a redacted copy of an agenda. He was advised that the Tate held no minutes and no other correspondence.

Request and response

4. On 18 February 2016, the complainant wrote to the MPS and requested information in the following terms:
- "1) Details and copies of any correspondence that took place between the Metropolitan Police and BP plc. in relation to the organisation of an ARGUS counter terrorism training, which took place at BP's St James's Square office on the 12th February 2015.*
 - 2) An outline/overview of the Project ARGUS training session and/or copies of the questions/dilemmas that attendees are presented with during the training.*
 - 3) To confirm whether any of the dilemmas/scenarios explored in the training session dealt with and/or addressed the management of protest, peaceful or otherwise.*
 - 4) To confirm whether there was any discussion of the management of protest or dealing with counter terrorism scenarios in museums and/or art galleries.*
 - 5) To confirm whether BP's sponsorship of UK cultural institutions was discussed in any form, and if so, what nature this took.*
 - 6) To confirm whether any members of the Metropolitan Police attended a Security Briefing meeting at BP's St James's Square office on the 3rd February 2015 and if so, to identify the role of those members of staff that attended".*
5. Following an extension to consider the public interest, the MPS responded on 19 April 2016. It provided some information but withheld the remainder citing sections 31(1)(a) and (b) as its basis for doing so.

It would also neither confirm nor deny holding information on the basis of sections 23(5) and 24(2).

6. The complainant requested an internal review on 9 May 2016, asking the MPS to reconsider part (6) of his request only. The MPS sent the outcome of its internal review on 17 June 2016, maintaining its position.
7. During the Commissioner's investigation the MPS revised its position regarding part (6) of the request and advised the complainant that no information was held.

Scope of the case

8. The complainant contacted the Commissioner on 20 June 2016 to complain about the way part (6) of his request had been handled. Following the MPS's change of position, as mentioned above, the Commissioner invited the complainant to withdraw his complaint; he advised that he still required a decision notice.
9. The Commissioner has considered whether or not the MPS held any recorded information in respect of part (6) of the request.

Reasons for decision

Section 1 – general right of access

10. Section 1 of the FOIA states that anyone making a request for information to a public authority is entitled to be informed whether the public authority holds the information, and if so, to have that information communicated to them.
11. The Commissioner is mindful that when she receives a complaint alleging that a public authority has stated that it does not hold the requested information, it is seldom possible to prove with absolute certainty whether the requested information is held. In such cases, the Commissioner will apply the normal civil standard of proof in determining the case and will decide on the 'balance of probabilities' whether information is held.
12. Therefore, the Commissioner has sought to determine whether, on the balance of probabilities, the MPS holds any recorded information within the scope of the request. Accordingly she asked the MPS to explain what enquiries it had made in order to reach this position.
13. In correspondence with the Commissioner the MPS advised:

"My enquiries with the National Counter Terrorism Policing Headquarters (NCTPHQ) reveal we have 'no information held' in respect of MPS officers attending a security briefing on the 3rd February 2015 at BP plc's St James's Square office.

I have been able to identify a number of MPS senior officers that, potentially would have been in the role to liaise with BP plc at the time of the training and briefing in February 2015 however, all three identified have since retired from the MPS. Any email account they would have held has been deleted and as such I have been unable to search their accounts for appointments".

14. The MPS confirmed that the former personal assistant to one of the retired officers had been consulted. Although she was no longer able to check the officer's calendar as it had since been deleted, she was able to review her own calendar for this date and could find no record of any such meeting having been arranged by or notified to her.
15. The MPS explained that it had also spoken to an Inspector in National Counter Terrorism Security Office (NaCTSO) in a further attempt to locate any recorded information. He advised that he had checked their calendar for Feb 2015 and no NaCTSO staff had any record of meetings with BP on that date. Therefore, he was also unable to confirm whether any MPS officers might have attended the security briefing as there was no information held to support this.
16. In a further effort to satisfy the request the MPS advised the Commissioner that it had made direct enquiries with the Tate but that this had proved fruitless.
17. Whilst it is not impossible that an officer may have attended the meeting concerned, the Commissioner considers that the MPS conducted searches within the most relevant business areas. The Commissioner considers that the MPS has therefore undertaken the most reasonable steps to locate any information held.
18. Based on the information provided, the Commissioner is satisfied that, on the balance of probabilities, no recorded information within the scope of the request is held. She is therefore satisfied that the MPS has complied with the requirements of section 1 of the FOIA in this case.

Right of appeal

19. 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: www.justice.gov.uk/tribunals/general-regulatory-chamber

20. 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.
21. 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

Carolyn Howes
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