

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 March 2020

Public Authority: North Wales Police

Address: freedomofinformation@north-wales.police.uk

Decision (including any steps ordered)

1. The complainant has requested various information on dog related harassment incidents in the past three years. The Commissioner's decision is that North Wales Police has complied with its obligations under section 1(1) and section 16 of the FOIA. The Commissioner does not require the public authority to take any steps.

Request and response

2. On 20 February 2019 the complainant wrote to North Wales Police and requested the following information:

"Could you please provide the data that you hold on record on dog related harassment incidents in the past three years.

1.The number of such incidents on record.

2.The number of prosecutions

3. And the policy of the NW Police regarding dealing with dog related harassment incidents. Particularly with regard to the Protection from Harassment Act 1997. (Especially reference 1.7 Criminal offences).

3. North Wales Police sought clarification of the request on 22 February 2019 asking if the complainant could confirm if she required information on Harassment crimes where a dog was involved.
4. The complainant responded on the same date referring to a helpful response she had received from another police force which identified

four offences that fall under the PHA 1997. She also clarified the reason for her request as follows:

"I am trying to find out whether there had been any increase in incidents where dog walkers and other walkers (without dogs) have been involved in incidents where dogs – with or without their owners being present – have either attacked dog owners, or their dogs, or other citizens, or been threatened by them.

Including incidents where neither dog, or owner has been bitten – but felt threatened or harassed and reported the matter to the police...

There are four offences that fall under the PHA 1997 and they are listed below...

Protection from Harassment (S2 PHA 1997)

Putting people in fear of violence (S4 PHA 1997)

Purse course of conduct – Stalking (S2A PHA 1997)

Stalking (S4A 1 (b) PHA 1997 – either involving fear of violence or Stalking involving serious alarm/ distress)"

5. NWP responded to the request on 4 March 2019 stating:

"North Wales Police do not hold any information in relation to your request as none of occurrences are relevant and we do not hold any policies on this topic.

6. The complainant requested an internal review on the same date querying that no dogs were involved in any recorded incidents with NWP in the last 3 years.

7. NWP confirmed that its response did not state that no dogs were involved in any recorded incidents within its boundaries in the last three years, adding that the complainant had been very specific with the information she required and the purpose of her request. Its search had reflected this.

8. There followed multiple correspondence between both parties over the next few days with the complainant providing a link to an incident involving a dog reported by the BBC stating that this would appear to match the criteria of a dangerous dog on the loose, posing a threat to the public. She also referred to another example reported in the press and quoting the North Wales Rural Crime Manager on dangerous dogs which she considered would fall within the scope of her request.

9. On 5 March 2019, NWP informed the complainant that it had responded to her request in full, by confirming that it does not hold any information relevant to her specific request, and stated that:

"If you require information on all incidents involving dog, dog-attacks etc., then this is a completely different question to 'dog related harassment incidents' where "dog walkers and other walkers (without dogs) have been involved in incidents where dogs – with or without their owners being present- have either attacked dog owners, or their dogs, or other citizens, or been threatened by them".

If you would like data on all dog attacks recorded by North Wales Police, please let us know and we will log this as a new request."

10. Further correspondence continued between both parties with NWP informing the complainant that it had nothing further to provide, reiterating that she could submit a new request for all dog related incidents.
11. Following further correspondence from the complainant, NWP confirmed on the same date that it would conduct a full review of her request.
12. Further correspondence continued with the complainant referring to section 16 of the Act (help and assistance) and how it had been applied in her engagement with another police authority.
13. Following an internal review North Wales Police wrote to the complainant on 6 March 2019. It informed the complainant that as it could fulfil her request, it was not believed further advice and assistance as per section 16 was applicable. It further informed the complainant that its search yielded 78 occurrences which were read to ascertain relevancy to the reason for the request. It further informed the complainant that the incidents she had referred to would not have appeared in the search criteria it was using based on her request and clarification. It concluded by stating that it appears there is some confusion over the information required which may be wider than indicated in her original request. Finally, it stated that it would be happy to progress matters if she were to contact them to discuss what information they were able to search for and thus enable her to receive the information she requires.
14. The complainant contacted NWP stating that she could not provide any more clarification as it was still maintaining that there were no dog related incidents in the past three years. Further correspondence between both parties appears to have continued up until 2 April 2019.

Scope of the case

15. The complainant contacted the Commissioner on 6 March 2019 to complain about the way her request for information had been handled. She was not satisfied with NWP's response to her request and stated that NWP are "*still maintaining that no dog related incidents occurred in the last three years*" despite two such incidents being in the press which fulfil the open criteria.
16. The complainant further stated that she had tried to be of help, giving clarifications from two other police authorities and dictionary definitions of the words used for the request but to no avail. She added that the NWP continue to state that there were no dog related incidents in the three years covering her request and asked her to make a new one. However, she has no idea how to be more specific other than re-stating information already given by other police forces. Finally, she stated that she feared NWP would just give the same response regardless of how she rephrased it, given that she has already passed on guidance provided by other police forces as clarifications.
17. The Commissioner considers that the scope of her investigation is to determine whether NWP has complied with its obligations under section 1 and section 16 of the FOIA.

Reasons for decision

Section 1 – General right of access to information held

18. Under section 1(1) of the FOIA, in response to a request for information a public authority is only required to provide recorded information it holds and is not therefore required to create new information in order to respond to a request.
19. In scenarios where there is some dispute between the information held by a public authority and the information that a complainant believes may be held, the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.
20. The Commissioner's judgement in such cases is based on the complainant's arguments and the public authority's submissions and where relevant, details of any searches undertaken. The Commissioner expects the public authority to conduct a reasonable and proportionate search in all cases.

21. In this particular case, NWP has clearly conducted its search based on the wording of the original request, the complainant's subsequent clarification and reason for the request.
22. The Commissioner notes that in its initial response to the complainant NWP stated that it does not:

"...hold any information in relation to your request as none of occurrences are relevant and we do not hold any policies on this topic."
23. At no point therefore has NWP stated that it does not hold any information on dog related incidents and the Commissioner notes that it has made that clear to the complainant on a number of occasions throughout their multiple correspondence.
24. The Commissioner also notes that in an email to the complainant dated 5 March 2019, NWP has clearly stated that if the information the complainant was seeking was broader than that specified in her request and clarification, *"...then this is a completely different question..."*
25. The Commissioner also notes that in respect of the first incident referred to by the complainant in paragraph 8 of this notice, NWP informed the complainant that it would not have appeared in its search as it did not fall within the search criteria it had used based on the details the complainant had supplied.
26. In relation to the second incident highlighted by the North Wales Rural Crime Manager, in its internal review NWP informed the complainant that it had contacted the Rural Crime Manager directly and reproduced his reply:

"The Rural Crime Team deal with all livestock attack offences. They are classified as offences under the Livestock Act 1953. They do not currently come under the Dangerous Dogs Act 1991, therefore would not fall under what the person was asking."
27. NWP further informed the complainant that the occurrences that the article referred to are not recorded under any of the legislation the complainant specified in her request.
28. It is clear to the Commissioner from the above and the chronology of the request outlined in paragraphs 2 to 14 of this notice that the interpretation of the request by NWP is different to the actual information the complainant is seeking. Indeed, NWP indicated as much on at least two occasions including in its internal review where it stated:

"I believe there is some confusion over the information required. A response was provided based on the clear clarification and reason for the request received..."

"We are happy to progress the request if you could contact us... or provide a number for us to contact you..."

29. The Commissioner has therefore concluded that NWP has complied with its obligations under section 1(1) of the FOIA.

Section 16 – duty to provide advice and assistance (comp upheld)

30. Section 16(1) of the FOIA provides that a public authority should give advice and assistance to any person making an information request, so far as it would be reasonable to do so.
31. The complainant has specifically raised concerns that NWP has not complied with its obligations under section 16 of the FOIA.
32. Having considered the chronology of the request above, the Commissioner notes that NWP confirmed to the complainant that it provided advice under section 16 of the FOIA by asking her to clarify her request, and based on that clarification, the response provided was considered to have fulfilled the request.
33. The Commissioner is also mindful that NWP repeatedly confirmed to the complainant that it was not saying that it did not hold any information on all dog related incidents, but on those that fell within the remit of her request and clarification. Further, in its internal review, NWP asked the complainant to either contact it to discuss what information she requires, or for her to provide a telephone number for it to contact her. To date the complainant has done neither of these.
34. Additionally, the Commissioner does not accept the complainant's comment that NWP are "...still maintaining that no dog related incidents occurred in the last three years" as it is clear from the discussion above that at no point in their correspondence has it ever stated this. Further, NWP has provided a reasonable explanation as to why the two incidents the complainant referred to would not have shown up in its search.
35. The Commissioner has therefore concluded that NWP has complied with its obligations under section 16(1) of the FOIA.

Right of appeal

36. 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@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

37. 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.
38. 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

Catherine Dickenson
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