

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 February 2022

Public Authority: Chief Constable of Gwent Police

Address: foi@gwent.pnn.police.uk

Decision (including any steps ordered)

1. The complainant requested copies of emails which had been sent to certain domains. Gwent Police initially stated that the information requested was exempt under section 40(2) (Personal information) of the FOIA. In its internal review, Gwent Police applied section 12 (Cost of compliance) to the request. During the Commissioner's investigation Gwent Police withdrew reliance on section 12 and confirmed that no information was held. The Commissioner finds that Gwent Police breached sections 1 and 10 of the FOIA in failing to inform the complainant that the requested information was not held within the statutory timescale. The Commissioner does not require any steps to be taken.

Request and response

2. On 20 October 2020 the complainant wrote to Gwent Police and requested information in the following terms:

"I hereby request copies of all emails held by the force sent to or received from any of the following domains:

@trafficpenaltytribunal.gov.uk
@londontribunals.org.uk
@appealparkingorbuslanefine.gov.scot
@ParkingAppeals.vosa.gov.uk
@TribunalsUnit.courtsni.gov.uk
@scotcourtstribunals.gov.uk".
3. Gwent Police responded to the request on 18 November 2020 and stated the information requested was exempt under section 40(2) of the FOIA

because the information contained direct and indirect personal identifiable information and "*the chances of identification are extremely high*".

4. On 18 November 2020 the complainant requested an internal review of the refusal to provide the information requested. He stated that it was not clear why the chance of identification was high or why the information constituted personal data. He also pointed out that he had made a similar request to West Yorkshire Police who provided the information requested whilst redacting any personal data.
5. Gwent Police provided the outcome of its internal review on 18 January 2021 and stated that it now considered section 12 of the FOIA to apply to the request as the cost of compliance would exceed the appropriate limit.

Scope of the case

6. The complainant contacted the Commissioner on 18 January 2021 to complain about the way his request for information had been handled. He stated that there appeared to be no rational connection between his internal review request and the internal review outcome
7. The scope of the Commissioner's investigation initially was to consider whether Gwent Police had correctly applied section 12 to the request of 20 October 2020.
8. During the course of the Commissioner's investigation Gwent Police withdrew its reliance on section 12 of the FOIA and agreed to comply with the request. Following searches undertaken to identify information falling within the scope of the request, Gwent Police confirmed that no information was held and wrote to the complainant to confirm its position.
9. As Gwent Police has now complied with the request, the scope of this notice is to consider whether Gwent Police has complied with procedural matters in respect of its handling of the request.

Reasons for decision

Section 1 – general right of access **Section 10 – time for compliance**

10. Section 1 of FOIA states that "any person making a request for information to a public authority is entitled to be informed in writing by

the public authority whether it holds information of the description specified in the request”.

11. Section 10(1) provides that a public authority must comply with section 1 promptly and in any event not later than the twentieth working day following the date of receipt of a request for information.
12. In this case the complainant made his request for information on 20 October 2020. In a refusal notice dated 18 November 2020 Gwent Police applied section 40(2) to the request and in its internal review dated 18 January 2021 Gwent Police then sought to rely on section 12 to refuse to comply with the request. It was only after the Commissioner commenced his investigation that Gwent Police withdrew reliance on section 12 and confirmed that it did not hold information falling within the scope of the request.
13. From the facts of this case, the Commissioner finds that Gwent Police breached section 1(1)(a) in failing to confirm to the complainant that it did not hold the requested information by the completion of its internal review. In addition, in failing to advise the complainant that the requested information was not held within the statutory time limit the Commissioner also finds that Gwent Police breached section 10(1) of the FOIA.
14. Since Gwent Police subsequently informed the complainant that the information was not held, she does not require any steps to be taken.

Other matters

15. Although not forming part of the formal decision notice the Commissioner uses 'Others Matters' to address issues that have become apparent as a result of a complaint or her investigation of that complaint and which are causes for concern.
16. Gwent Police initially applied section 40(2) to the request and during its internal review it then sought to apply section 12 to the request. During the course of the Commissioner's investigation Gwent Police then confirmed that it did not hold any information falling within the scope of the request. It is therefore clear to the Commissioner that, at the time that Gwent Police applied section 40(2), it had not identified or located the information held relevant to the request.
17. The Commissioner would like to remind Gwent Police of the importance of considering what information is held relevant to a request before applying any exemptions. A failure to do so can result in an incorrect response being issued, as happened in this case.

Right of appeal

18. 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

19. 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.
20. 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

Joanne Edwards
Senior Case Officer
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Wycliffe House
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