

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 April 2023

Public Authority: Chief Constable of West Yorkshire Police
Address: PO BOX 9
Laburnum Road
Wakefield WF1 3QP
FOI@westyorkshire.pnn.police.uk

Decision (including any steps ordered)

1. The complainant requested information from West Yorkshire Police in relation to any enquiries it made into the alleged neglect by the Health Secretary of their duty to ensure contracts were appropriately awarded during the pandemic emergency.
2. West Yorkshire Police responded by stating it did not hold any recorded information falling within the scope of the request.
3. The Commissioner's decision is that West Yorkshire Police does not hold any recorded information falling within the scope of the complainant's request based on the balance of probabilities.
4. The Commissioner does not require West Yorkshire Police to take any steps.

Request and response

5. On 8 December 2022 the complainant wrote to West Yorkshire Police (WYP) and requested information in the following terms:

"Given the news of Baroness Mone's profiteering over the pandemic, and the publication of the former Health Secretary's diary in which he describes being blackmailed by the baroness in relation to the award of those dubious contracts, I am reminded that I did report the misconduct of the minister to you at the time.

I understand from the Mayor's office that, for reasons which remain unclear, you declined to address the report. In complaint ref [redacted] in relation to that report (and others), you stated that "All reasonable and proportionate enquiries have been made."

What enquiries did you make into the alleged neglect, by the Health Secretary of their duty to ensure that contracts were appropriately awarded during the emergency?

While we are here, which version of the Home Office Crime Reporting Rules are you using, and what does it say about crimes which affect multiple force areas?"

6. After some confusion, WYP issued a substantive response on 30 December 2022 and stated that it did not hold the requested information.
7. As the complainant was unhappy with the response from WYP he requested an internal review on 3 January 2023.
8. Following an internal review WYP wrote to the complainant on 31 January 2023. It stated it could neither confirm nor deny that it held the requested information by virtue of Section 30(3) – investigations and proceedings conducted by a public authority and Section 40(5) – personal information of the FOIA.

Scope of the case

9. The complainant contacted the Commissioner on 10 March 2023 to complain about the way his request for information had been handled.
10. The Commissioner contacted WYP on 23 March 2023 to request some clarification regarding the request and the circumstances surrounding it.

11. WYP responded on 31 March 2023 and said they had reviewed their position and decided the correct response was the initial one given that the requested information was not held in a recorded format.
12. On 3 April 2023 WYP issued a revised response to the complainant stating the information he had requested was not held.
13. The Commissioner considers that the scope of his investigation is to determine whether WYP holds the requested information based on a balance of probabilities.

Reasons for decision

Section 1(1) FOIA Information held

14. Section 1(1) FOIA provides that:

“Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.”

15. The Commissioner has sought to determine whether, on a balance of probabilities, WYP holds any recorded information that would answer the complainant's request.
16. In order to contextualise the request, WYP provided the Commissioner with some background information in relation to it. WYP explained that the prior to the information request on 8 December 2022, the complainant made a complaint regarding a live chat conversation with one of its employees whilst trying to report the matter as a crime and the subsequent correspondence that ensued. It was in relation to this service complaint against its employee, when WYP explained to the complainant that it carried out 'reasonable and proportionate enquiries'. WYP has confirmed it followed its complaints procedure including an appeal which has since been reviewed by the Mayor's Office which holds them to account.
17. WYP has stated to the Commissioner that it is misleading for the complainant to connect the service complaint he made against its employee with the subsequent FOIA request he submitted.

18. WYP has confirmed to the Commissioner that all 'reasonable enquiries' were carried out in relation to complaint made against its member of staff. However, this statement, and therefore these enquiries, did not relate to the Health Secretary or the award of contracts.
19. In its final response to the complainant on 3 April 2023, WYP confirmed that it did not hold any recorded information falling within the scope of his request in so far as it related to the Health Secretary.
20. For these reasons, WYP has stated to the Commissioner it does not hold any recorded information falling within the scope of the information request submitted by the complainant on 8 December 2022.
21. Having considered the background circumstances leading up to the complainant's request and the detailed explanation provided by WYP, the Commissioner is satisfied on a balance of probabilities that WYP does not hold any recorded information falling within the scope of the complainant's request.

Right of appeal

22. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

23. 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.
24. 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

**Laura Tomkinson
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**