

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date 12 December 2006

Public Authority: Greater Manchester Police

Address: Police Headquarters
Chester House
Boyer Street
Old Trafford
Manchester
M16 0RE

Summary

The complainant submitted a request to the public authority for a large file containing information relating to him and to court proceedings that took place in the 1970s and 1980s. Having conducted a search of its records the public authority advised the complainant that it did not hold this information. The public authority explained that if the information had been held it was likely that it would have been destroyed a number of years ago due to the time that had elapsed since the events to which the request related took place. Having considered the information available the Commissioner is satisfied that the information requested by the complainant is not held by the public authority.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 ('the Act'). This Notice sets out his decision.

The Request

2. On 4 January 2005 the complainant wrote to the public authority as follows:

"I have a subject access request under the Data Protection Act in being. I am informed that the new Freedom of Information Act, enacted on 1 January 2005, strengthens my position. It is incumbent on me to reaffirm my rights under the new Act. This is a notification I am claiming the protection of the new Act in addition to my outstanding subject access requests under the Data Protection Act"

3. The complainant wrote to the Commissioner in March 2005 to explain that the public authority had failed to respond to his request. The public authority advised the Commissioner that it could find no record of having ever received the complainant's request. On 19 May 2005 the complainant resubmitted his request by special delivery.
4. The complainant contacted the Commissioner again on 10 November 2005 to advise that the public authority had failed to respond to his latest request. The public authority confirmed in an email to the Commissioner dated 6 June 2006 that the request had been received on 20 May 2005. However, it would appear that the request was mislaid and not sent to the Freedom of Information Department as required. The reason for this failure was not known. The public authority stated that if the complainant resubmitted his request it would be dealt with appropriately.
5. On 3 July 2006 the Commissioner provided the public authority with a copy of the complainant's letter dated 4 January 2005 and instructed it to process the request in accordance with the provisions of the Act.
6. Having clarified that the complainant was seeking all information relating to the court proceedings in which he was involved in the 1970s and 1980s the public authority provided the complainant with a response on 2 August 2006. The public authority explained that a search had been conducted for the following information:

"The dossier aka large file your force has shown to others and acted in collusion to prevent the course of justice".
7. The public authority advised that it did not hold a large file of information relating to the complainant's request and that the information supplied in response to a subject access request submitted in January 2002 was the only information it held. Since the public authority had determined that the complainant was seeking any additional information which may not have been covered by his earlier subject access request it dealt with this request under the Act.
8. The complainant wrote to the public authority on 8 August 2006 to request an internal review. The public authority responded on 14 August 2006 by confirming that it did not hold a large file of information about the matters described by the complainant. The public authority explained that if this information had been held it was likely that it would have been destroyed a number of years ago.

The Investigation

Scope of the case

9. The complainant contacted the Commissioner to complain about the way his request for information has been handled. The complainant feels that the public authority has failed to provide him with information it holds relevant to his request.

Chronology

10. The Commissioner wrote to the public authority on 25 September 2006 to request the following information:
 - A summary of the steps that were taken to locate the information requested;
 - Confirmation of whether the information was ever held;
 - The date of destruction of the information or details of the public authority's records management policy for comparable records of a similar age;
 - Details of any legal requirements that would relate to the retention of the information requested.
11. In addition to the above, the Commissioner asked that the public authority provide a summary of any responses it had supplied to the complainant in relation to a number of subsequent requests he had submitted for the same information.
12. On 29 August 2006 the public authority responded to the Commissioner. It explained that in 2002 the complainant had submitted a subject access request to the public authority. At that time the Stockport Division and Special Branch were asked whether they held any information about the complainant and the matters he was raising. The Stockport Division advised that all papers for the period in question (1972-1982) had been destroyed several years ago. Special Branch confirmed that it held no information relevant to the request.
13. The public authority had asked the Chief Constable's Office whether it held any papers relating to the matters raised. This Department confirmed that it only held correspondence received from the complainant since May 2005 and it did not hold any historical documents.
14. It suggested that some information of the nature requested by the complainant may be located in the archive held by its Corporate Services Department. After a search of this archive the public authority reported that no records relating to the events described by the complainant were held.
15. Following this search the public authority declared that it could not categorically state whether it ever held all or any of the information requested by the complainant. The public authority did however provide copies of its guidance for records management for 1990 and 1996 and confirmed that had any documents requested by the complainant existed in either 1990 or 1996 they would have been destroyed in accordance with these policies. These guidelines did not require that a record be made when information was destroyed.
16. The public authority advised the Commissioner that its archive is regularly weeded in compliance with retention guidelines provided by the Information Commissioner's Office and the Association of Chief Police Officers. It was therefore unlikely that any historical material from the time the events described by the complainant took place (the 1970s and 1980s) would still be held.
17. The public authority explained that in a final attempt to locate information relevant to the complainant's request it had contacted the Greater Manchester Police

Museum. In a letter dated 24 October 2006 the public authority confirmed that this department did not hold any information relating to the issues raised.

Analysis

Procedural matters

18. The Commissioner has considered whether the information requested by the complainant is held by the public authority.
19. The public authority has assured the Commissioner that it does not hold the information requested by the complainant. The public authority has provided the Commissioner with details of the steps it has taken in order to establish whether it holds the information requested by the complainant.
20. Having considered the information available the Commissioner is satisfied that the public authority does not hold any information relating to the events described by the complainant. Consequently, the Commissioner is of the opinion that the public authority has complied with section 1(1) of the Act. Section 1(1) of the Act 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.”*

The Decision

21. The Commissioner’s decision is that the public authority dealt with the request for information in accordance with the Act.

Steps Required

22. The Commissioner requires no steps to be taken.

Other matters

23. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters:
 - i. The public authority advised the Commissioner that although it had received the complaint’s letter of 19 May 2005 the request was not sent to the Freedom of Information department as required. The reason of this failure is unclear. Since

the public authority was in the process of dealing with the request the Commissioner did not consider that issuing a decision notice relating to this breakdown in its procedures would be in the public interest. The Commissioner did however write to the public authority to emphasise the need to ensure that staff are trained to recognise requests for information and are aware of how such requests should be dealt with to ensure compliance with the Act.

- ii. The public authority has also advised the Commissioner that it appointed a records manager in June 2004 who has created a new retention policy taking into account requirements of the Freedom of Information Act, the Criminal Procedure and Investigations Act, and the code of practice on the Management of Police Information. The record manager is also working towards compliance with British Standard 15489 'information and documentation records management'.

Right of Appeal

- 24. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

Dated the 12 day of December 2006

Signed

**Graham Smith
Deputy Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**