

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 March 2012

Public Authority: Chief Constable of Greater Manchester Police
Address: Chester House
Boyer Street
Manchester
M16 0RE

Decision (including any steps ordered)

1. The complainant requested information relating to the media strategy of Greater Manchester Police in relation to the August riots. GMP initially refused to disclose the information requested and cited a number of exemptions. During the Information Commissioner's investigation GMP withdrew reliance on these exemptions in relation to the majority of the information and this information was disclosed. This decision notice concerns any procedural breaches in the handling of this request and the Commissioner's decision is that GMP breached the FOIA by failing to provide a valid response to the request within 20 working days of receipt and by failing to identify all information it held that fell within the scope of the request.

Request and response

2. On 20 August 2011, the complainant wrote to GMP and requested information in the following terms:

"...any documents and minutes from meetings relating to the media strategy (including social media) of Greater Manchester Police as it relates to the riots that took place earlier this month."
3. After a delay GMP responded substantively on 10 October 2011. It stated that the request was refused, with the exemptions provided by the following sections of the FOIA cited:

31(1)(b) (prejudice to the apprehension or prosecution of offenders)

40(2) (personal information)

42(1) (legal professional privilege)

4. Following an internal review GMP wrote to the complainant on 9 November 2011. At this stage it stated that it no longer relied upon section 42(1), but that the citing of sections 31(1)(b) and 40(2) was upheld.

Scope of the case

5. The complainant contacted the Information Commissioner to complain about the way his request for information had been handled. The complainant raised concerns about both the refusal to disclose the information requested and about the handling of the request.
6. The primary concern of the complainant was about a misreading by GMP of his request. The complainant believed, and this was supported by the wording of the refusal notice, that GMP had misread his request such that it appeared to view it as a request for all minutes of meetings relating to the August riots, when it was in fact restricted to only those minutes that related specifically to media strategy.
7. During the investigation by the Commissioner's office the issue of the misreading of the request was raised with GMP. It was asked to ensure that it had identified all information falling within the scope of a correct reading of the request.
8. GMP responded to this and stated that it had identified further information to that identified when the request was responded to. This further information was disclosed to the complainant.
9. The complainant also raised the issue of the delay in responding to this request. The complainant noted that GMP had issued a holding response on 20 September 2011, but that this had mentioned only section 31, and had not specified any subsection of section 31, and had made no mention of the other exemptions upon which GMP subsequently relied.
10. During the investigation GMP disclosed the information previously withheld under section 31(1)(b). It also withdrew reliance on section 42(1). Following this the complainant confirmed that he did not object to the citing of section 40(2), but did wish the Commissioner to issue a

decision notice covering the procedural breaches in the handling of his request, including the initial misreading of the request.

11. The scope of this decision notice therefore covers only the handling of the request by GMP. The exemptions cited by GMP are not covered in this notice.

Reasons for decision

Section 10

12. Section 10(1) requires that a public authority should respond to a request within 20 working days of receipt. In relation to any information held that falls within the scope of the request, this should either be disclosed, or the complainant should be given a valid explanation as to why it will not be disclosed.
13. GMP misread the request, despite the wording of this having been clear. This misreading appeared to expand what GMP understood to be the scope of the request far beyond that covered by an objective reading of the request.
14. As covered above, during the investigation of this case GMP carried out a further search for relevant information. This search located further information and this was disclosed to the complainant. The view of the Commissioner is that, had GMP read the request correctly in the first instance and carried out a more focussed search for information, it may have located this additional information at that time. GMP should ensure that it reads requests objectively in future.
15. In failing to disclose this additional information within 20 working days of receipt of the request, GMP did not comply with the requirement of section 10(1).

Section 17

16. Section 17(1) of the FOIA requires that, where a request is refused, a refusal notice must be sent within 20 working days of receipt of the request. Section 17(3) provides that the only situation in which the response time may be extended is where an exemption qualified by the public interest is engaged, but the public authority requires further time to consider the balance of the public interest. In order for section 17(3) to apply and for an extension of the 20 working days response period to be permissible under the FOIA, the complainant must have been advised

of all the exemptions cited, and an explanation for the citing of each of these must have been given. There is no extension to the 20 working days response period available in relation to exemptions that are not qualified by the public interest.

17. In this case GMP failed to issue a holding response that met the requirements set out above. Whilst the complainant was advised that section 31 was relied upon, no subsection of this exemption was specified and no explanation for the citing of this exemption was given. GMP also cited section 42(1) in the refusal notice without having mentioned this exemption earlier, and cited section 40(2), which is not a qualified exemption.
18. The conclusion of the Commissioner is, therefore, that GMP breached the FOIA in that it failed to respond to the request with a valid refusal notice within 20 working days of receipt. GMP should ensure that in future it responds to requests within the time limit required by the FOIA.

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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

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

Jon Manners
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