

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 April 2015

Public Authority: Chief Constable of West Yorkshire Police
Address: West Yorkshire Police HQ
PO Box 9
Laburnum Road
Wakefield
WF1 3QP

Decision (including any steps ordered)

1. The complainant submitted a request for information on 10 November 2014. The complaint was clarified on 17 November 2014. West Yorkshire Police responded on 19 February 2015.
2. The Commissioner's decision is that West Yorkshire Police has breached sections 1(3) (clarification of a request) and 10(1) (time for compliance) of FOIA.
3. The Commissioner does not require West Yorkshire Police to take any further steps.

Request and response

4. On 10 November 2014, the complainant wrote to West Yorkshire Police (WYP) and requested information in the following terms:
"All correspondence between PKF Littlejohn regarding both AF/224/14 and the recent audit into Keighley Town Council."
5. WYP responded on the same day. It explained that it needed clarification as to whether the complainant had sent the request to the correct public authority. WYP also advised that Keighley Town Council might hold the information he had requested.

6. On 17 November 2014 the complainant responded. He explained that he might not have been explicit in asking for correspondence between WYP and Littlejohns but he considered the fact that he had sent his request to WYP implied this.
7. On 18 November 2014 WYP contacted the complainant, explaining that it needed to clarify exactly what he was asking for. It explained that freedom of information requests require specificity and could not rely on implication and assumption. WYP asked the complainant to confirm that he was asking for "correspondence between West Yorkshire Police and PKF Littlejohn in relation to a recent audit of Keighley Town Council". WYP also asked the complainant to clarify what he meant by "correspondence" as it considered this was quite a broad term and specificity would be helpful.

Scope of the case

8. The complainant contacted the Commissioner 18 December 2014 to complain about the way his request for information had been handled. He explained that on 10 November 2014 he had been asked to clarify his request and he had done so on 17 November 2014. He explained that he was then asked to clarify what he meant by "correspondence" but he felt that its meaning was not ambiguous.
9. The complainant also explained that WYP had yet to respond to his request.
10. The Commissioner will consider whether WYP handled the clarified request in accordance with the FOIA.

Reasons for decision

11. Section 1 of the FOIA states

"(1) 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."

12. With regard to the clarification of a request , section 1 also states:

"(3) Where a public authority –

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

The authority is not obliged to comply with section (1) unless it is supplied with that further information.”

13. Section 10 of the FOIA states that

“(1) a public authority must comply with section 1(1) promptly, and in any event not later than the twentieth working day following the date of receipt.”

14. In his guidance “Interpreting and clarifying requests”¹ the Commissioner deals with public authorities receiving unclear or ambiguous requests which reasonably require further information to identify the requested information. When this happens it triggers the duty to provide advice and assistance ²the public authority must contact the requester within 20 working days, to ask for the clarification.

15. When seeking clarification the authority should ensure that:

- its only purpose is to make sure that it understands what information the requester wants;
- it does not give the impression that the requester is obliged to explain their reasons for making the request; and,
- the individual’s interest in the information is only taken into account if it helps to determine the scope of the request; it should not have any bearing on the authority’s response.

16. Following the provision of reasonable advice and assistance, if the requester is still unable to supply the required clarification, the authority will not be expected to offer advice and assistance a second time.

17. When responding to a clarified request, the 20 working day limit starts the working day after the requested clarification has been received by the public authority.

¹ <https://ico.org.uk/media/for-organisations/documents/1162/interpreting-and-clarifying-a-request-foia-eir-guidance.pdf>

² Section 16 of FOIA.

18. In this case, the complainant submitted his request on 10 November 2014 and was asked to provide clarification on the same day by WYP. The complainant responded on 17 November 2014, providing the requested clarification. The Commissioner considers that at that point, WYP had enough information to answer the clarified request.
19. On 18 November 2014, WYP requested further clarification, asking the complainant to explain what he meant by "correspondence". The Commissioner considers the meaning of "correspondence" is clear and that this further clarification was not needed for WYP to respond to the clarified request of 17 November 2014.
20. As the clarified request was received by WYP on 17 November 2014, it should have responded to the request no later than 15 December 2014. WYP did not respond to the clarified request.
21. However, during the Commissioner's investigation, the complainant confirmed that he was asking for the following: *"All correspondence between PKF Littlejohn and West Yorkshire Police regarding both AF/224/14 and the recent audit into Keighley Town Council."* The Commissioner explained this to WYP on 19 December 2014.
22. WYP subsequently confirmed that it had responded to that request.
23. The Commissioner considers that WYP has breached sections 1(3) and 10(1) of the FOIA as it did not respond to the clarified request of 17 November 2014.

Right of appeal

24. 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@hmcts.gsi.gov.uk

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

25. 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.
26. 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

Rachael Cragg
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