

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 July 2015

Public Authority: Thames Valley Police
Address: Headquarters
Oxford Road
Kidlington
Oxon
OX5 2NX

Decision (including any steps ordered)

1. The complainant requested from Thames Valley Police (the police) a copy of a report by a named civilian investigator concerning events at a named college. The complainant made clear that, in making his request, he did not want to be provided with the names of abused minors.
2. The Commissioner's decision is that, on a balance of probabilities, the police are correct to say that they do not hold the requested information. He therefore did not uphold the complaint.
3. The Commissioner does not require the police to take any further steps.

Request and response

4. On 15 November 2014, the complainant wrote to the police and requested information in the following terms:

Please provide:

- A copy of the [name of the author] Report (the report) dated 26 July 2010, into events at [a named College] (the college). This will specifically include the six appendices.
- A copy of the correspondence to and from the college and / or Oxford Council pertaining to the report.

Exemptions:

*Under no circumstances do I want the names of the abused minors.
However, names of public employees must be included.*

5. The police responded on 5 January 2015 saying that they could neither confirm nor deny holding the requested information and relying on the section 40(5)(b) and section 30(3) FOIA exemptions.
6. Following an internal review the police wrote to the complainant on 22 January 2015 confirming the decision to neither confirm nor deny holding the information requested.

Scope of the case

7. The complainant contacted the Commissioner on 22 March 2015 to complain about the way his request for information had been handled. The complainant stated that he believed that the police held more information.
8. On 29 April 2015, during the Commissioner's investigation, the police wrote again to the complainant after having reviewed their response and, instead of neither confirming nor denying holding the information, said that they did not hold the information either the report of any related correspondence.
9. In deciding this matter, the Commissioner considered whether or not, on the balance of probabilities, the police are correct to say that they do not hold any further information.
10. The Commissioner also proceeded to consider the time taken by the police to deal with the request.

Reasons for decision

Section 1 – General right of access

11. Section 1(1) of the FOIA states 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."*

12. In applying this test the Commissioner will consider the scope, quality, thoroughness and results of the searches and other explanations offered as to why the information is not held.
13. In situations where there is a dispute between a public authority and a complainant about whether or not the requested information is held, the Commissioner has to decide it on the civil standard of the balance of probabilities.
14. In appealing to the Commissioner the complainant said (but without providing supporting evidence) that the police held the report and that it had been provided to two named police officers in late 2010.
15. The Commissioner invited the complainant to share with him the information that had led him to believe the police held the information. He also asked the complainant to say if he had access to parts of the report.
16. During his investigation, and in the absence of evidence to the contrary, the Commissioner told the complainant that he was minded to accept the police position but invited him to challenge that conclusion if he so wished. The complainant has not done so but later responded with a request for the Commissioner to issue a Decision Notice which he has now done.
17. The complainant said that the police had earlier, in December 2014, told him that they had not uncovered the report nor any mention of it and therefore where the report might be held, if indeed it were held at all.
18. Subsequently the police told the Commissioner that they had carried out extensive checks with the relevant named officers and other officers involved in the police investigation of the matter. The police said that they had also reviewed the case documents held at their Records and Evidence Centre. The police added their understanding that the report had been commissioned by the college and had not been part of a police investigation.
19. The Commissioner considered the information provided by the complainant but also noted the lack of supporting evidence from him for the case he was seeking to make. The Commissioner also noted the initial doubts apparently expressed by the police as to whether or not the report might or might not be held at all.
20. The Commissioner also noted the searches and enquiries that had been made by the police during the course of his investigation. He considered the body of evidence suggesting that the report was not held by the police and has not seen any supported evidence to call into question the police conclusion that the report was not held. Accordingly he decided,

on the balance of probabilities, that the report is not held, and he therefore does not uphold the complaint.

Section 10 – Time for compliance

21. Section 10(1) of FOIA requires a public authority to issue a refusal notice within the time for compliance, which is 20 working days following the date of receipt.
22. In this case the police issued the refusal notice outside the statutory 20 working day period, and therefore breached section 10(1).

Right of appeal

23. 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

24. 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.
25. 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
Group manager

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF