

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 January 2012

Public Authority: Lancashire Police Authority
Address: PO Box 653
Preston
Lancashire
PR2 2WB

Decision (including any steps ordered)

1. The complainant requested information relating to what he believed to be a campaign run by Lancashire Police Authority (LPA) against the Police Reform and Social Responsibility Bill. The response of LPA to this request was that it had not conducted any such campaign and so it did not hold any information falling within the scope of the request.
2. The Information Commissioner's decision is that LPA placed excessive focus on the word 'campaign', rather than considering what information the complainant sought. In doing so LPA failed to comply with the requirement of section 16(1) to provide advice and assistance to any person making a request.
3. The Information Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Contact the complainant to seek clarification as to the information he wished to access.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Information Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 4 May 2011, the complainant wrote to LPA and requested information in the following terms:

"Please provide all internal information including costs information in relation to the LPA campaign against the Police Reform and Social Responsibility Bill. I refer to all costs of internal web campaigns, national and local campaigns, newsletters, webpages and costs of participation in APA national/local campaigns. I also include detail and costs of public consultations related to this campaign. Please also include records/costs of officer time spent on such campaigns and job descriptions of officers engaged on such campaigns. Please include all information in the possession of the LPA that is relevant to this request."

6. LPA responded on 23 May 2011. It stated that it had not carried out a campaign relating to the Police Reform and Social Responsibility Bill (the Bill). The position of LPA was that it did not, therefore, hold any information falling within the scope of the request.
7. Following an internal review LPA wrote to the complainant on 24 June 2011. It maintained that it had not carried out a campaign against the Bill and so it did not, therefore, hold any information falling within the scope of the request.

Scope of the case

8. The complainant contacted the Information Commissioner to complain about the way his request for information had been handled. The complainant maintained that the activities undertaken by LPA in response to the Bill did amount to a campaign and that it must hold information falling within the scope of his request.

Reasons for decision

9. The position of LPA in this case is based upon the complainant having specified in his request that he sought information relating to a *campaign* against the Bill carried out by LPA. As LPA states that it has not carried out any such campaign, it takes the position that there is no possibility that information that falls within the scope of the complainant's request could exist.

10. The view of the Information Commissioner is that LPA has focused excessively on the word 'campaign'. Given that it is clear that the request stems from other information that the complainant has seen that records actions taken by LPA *in response to* the Bill, the Information Commissioner believes that it was not the correct approach for LPA to place such focus on 'campaign'. Instead, the view of the Information Commissioner is that, rather than intending this request to have such a narrow focus, the intention of the complainant was to seek background information about the actions taken by the LPA in response to the Bill.
11. LPA was contacted by the Information Commissioner's Office during the investigation of this case and invited to reconsider the request, reading it more widely than had been the case previously. In response to this LPA maintained that it had read the request correctly and referred to the complainant having used the word 'campaign' a number of times when making his request.
12. The approach of the Information Commissioner is that a public authority should focus on the information that has been requested, rather than on the precise wording of a request. In this case the view of the Information Commissioner is that the public authority could reasonably have related the request to the publicly available information about action it has taken in response to the Bill and recognised that it was likely that information about the background to these actions was being sought. That this was the intention of the request was made clearer in the correspondence in which the complainant requested an internal review, in which he cited a press release from LPA that referred to research that LPA had carried out relating to the Bill.
13. In any event, the FOIA includes a mechanism at section 1(3) whereby a public authority can seek clarification from a requester to identify the information requested. Section 16(1) of the FOIA also requires that public authorities should provide advice and assistance to any person making a request. The view of the Information Commissioner is that it would have been in line with this duty to provide advice and assistance for LPA to have exercised its ability under section 1(3) to seek clarification from the complainant as to what information he sought. In the event, the focus on the word 'campaign' led to a response that no information was held, when it appears highly likely that LPA do hold information of the kind that the Information Commissioner believes the complainant envisioned when making his request.
14. The conclusion of the Information Commissioner is that LPA breached section 16(1) of the Act in that it did not offer appropriate advice and assistance to the complainant with the aim of clarifying what information was sought. Rather than inserting his own reading of what the

complainant sought, the Information Commissioner has taken the approach, at paragraph 3 above, of requiring LPA to respond to the complainant to seek clarification from him as to what information was sought. This response should enquire of the complainant whether he is requesting recorded information that gives background to the actions taken by LPA in response to the Bill, regardless of the eventuality that the complainant and LPA continue to disagree as to whether these actions constituted a 'campaign'.

Right of appeal

15. 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

16. 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.
17. 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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