

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 June 2012

Public Authority: Crown Prosecution Service
Address: Rose Court
2 Southwark Bridge
London SE1 9HS

Decision (including any steps ordered)

1. The complainant has requested the email address of two members of the public authority's staff. The public authority (the "CPS") initially refused to provide them but disclosed the information following the Commissioner's intervention.
2. The Commissioner's decision is that the CPS has contravened a number of its procedural obligations when handling this request. These relate to the timeliness of CPS' response and the detail that must be provided when refusing to provide requested information.
3. The Commissioner does not require the CPS to take any steps because it has now disclosed the requested information to the complainant.

Request and response

4. On 17 November 2011, the complainant wrote to the CPS by an email entitled "*Freedom of Information request*" and requested information in the following terms:

"Please provide the Email address of [CPS Employee A] and [CPS Employee B].

I would expect to receive this information tomorrow as the Act says you should provide it 'promptly' and not later than 20 working days. As this is information you will have immediately to hand it should be possible for you to supply the information very quickly".

5. CPS Employee A sent a response via the CPS' FOIA unit dated 17 November 2011. The response provided the complainant with other

contact information for correspondence but refused to provide a direct email address. The response also directed the complainant to the CPS' FOIA Unit if he wanted to make a formal request under the Act.

6. The complainant asked for a review of CPS' response to his request on the following day (18 November 2011). CPS then provided a second and more detailed refusal notice on 19 December 2011 where it cited the exemption at section 40(2) as its basis for refusing to provide the email addresses. This exemption applies where disclosure under the Act would involve the unfair disclosure of personal data relating to someone other than the requester.
7. The complainant then requested an internal review of this more detailed refusal on 25 January 2012. He disputed CPS' reliance on section 40(2).
8. CPS provided the outcome of its internal review in a letter of 14 February 2012. It upheld its original position on the substantive question of access to the email addresses. It noted that its original response should have made reference to both email addresses and not solely one.

Scope of the case

9. The complainant contacted the Commissioner to complain about the way his request for information had been handled. He sought to challenge CPS' reliance on section 40(2) and also its compliance with its procedural obligations under the Act.
10. There was an exchange of correspondence between the Commissioner and the CPS following which the CPS disclosed the requested email addresses to the complainant.
11. The Commissioner then invited the complainant to withdraw his complaint following this disclosure, given that there were no steps that he could now order CPS to take. The complainant declined this invitation and said that he still wished the Commissioner to investigate whether CPS complied with its procedural obligations under the Act.
12. This decision notice therefore addresses whether CPS complied with its obligations under section 1 (General right of access), section 10 (Timeliness of response) and section 17 (Refusal of request) notice of refusal) of the Act.

Reasons for decision

Section 1 (General right of access)

13. Section 1(1) of the FOIA 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.”

14. In this case, CPS failed to disclose the information in question upon request.

Section 1 (General right of access) - conclusion

15. In failing to provide the information in question upon request, CPS contravened the requirements of section 1(1)(b).

Section 10 (Time for compliance)

16. Section 10(1) of the FOIA provides that –

“Subject to subsections (2) and (3), 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.”

17. In this case, CPS failed to provide the requested information or a proper refusal notice within 20 working days following the date of receipt.

Section 10 (Time for compliance) - conclusion

18. In failing to provide the requested information or a proper refusal notice within 20 working days, CPS contravened the requirements of section 10(1).

Section 17 (Refusal of request)

19. Section 17 imposes a number of procedural obligations upon public authorities to explain any reasons for refusal clearly and in a timely manner. Public authorities must also set out details of any complaints procedure that it has and, in any event, explain the requester’s right to appeal to the Commissioner under section 50 of the Act. The full detail

of these obligations can be found online.¹ The Commissioner has also published guidance to assist public authorities in complying with their obligations under the Act.²

20. In its initial response of 17 November 2011 to a request (of the same date) that was clearly made under the Act, CPS failed to provide the following information:

- the exemption from disclosure that it sought to rely on;
- why it believed this exemption applied;
- detail of any appeal procedure it had; and
- the complainant's right to seek an appeal under section 50 of the Act.

21. It rectified this in its letter to the complainant of 19 December 2011 where this detail was provided. However, this letter was not provided within 20 working days following receipt of the complainant's initial and unequivocal request of 17 November 2011.

22. The Commissioner welcomes the CPS' decision to reverse its original refusal under the Act. However, when providing that original refusal, it should have provided the complainant with the necessary detail that is required by section 17. This would have allowed the complainant to understand more clearly the basis for CPS' refusal and, where he chose to do so, to follow the appropriate appeal route.

23. The CPS explained to the Commissioner that it sought to resolve the complainant's request for information (specifically about contact details of its staff) outside FOIA and through the normal course of its correspondence with the complainant. It also explained that once it became clear that this route was not successful, it handled the complainant's request under FOIA.

24. However, the Commissioner is satisfied that the complainant's request is clearly marked as a request under the Act. He therefore maintains that it should have been handled as such from the outset, especially given that its original position was to withhold information from the complainant.

¹ <http://www.legislation.gov.uk/ukpga/2000/36>

² http://www.ico.gov.uk/for_organisations/freedom_of_information/guide.aspx

Section 17 (Refusal of request) - Conclusion

25. In failing to provide its reasons for refusal and the complainant's right of appeal in a timely manner, the CPS contravened section 17(1) of the Act.

Right of appeal

26. 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

27. 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.
28. 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

Alexander Ganotis
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