

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 November 2012

Public Authority: Chief Constable of Dyfed-Powys Police

Address: Dyfed Powys Police Headquarters

PO Box 99
Llangunnor,
Carmarthen
SA31 2PF

Decision (including any steps ordered)

1. The complainant asked how and why Dyfed-Powys Police (DPP) pursued a magistrate's court case on an alleged spurious allegation of a dog attack by a senile old man living in a local nursing home. DPP refused the request on the basis of section 8(2)(c) of the Freedom of Information Act 2000 ('the Act').
2. The Commissioner's decision is that DPP reasonably required further details in order to identify the requested information, and sought this clarification from the requestor. As it did not receive this clarification, it was not obliged to comply with the request, as confirmed by virtue of section 1(3) of the Act. The Commissioner orders no steps.

Request and response

3. On 1 June 2012 the complainant wrote to DPP and requested information in the following terms:

"...could you please explain how, and why...on a poor fabricated, spurious false allegation of a dog attack, Dyfed-Powys Police force dragged an obviously senile old man away from his security of nursing Home care at [named care home] and into Llandeilo magistrate's court..."

4. DPP contacted the complainant on the same date to ask him for further information in respect of his request. In particular, it wanted to know details of the date of the dog attack and the date of the Magistrate's court hearing. The complainant responded on 3 June 2012. His response did not include any further details of his request but stated:

"The court case brought before Llandeilo Magistrates is a matter of record, as you know. Indeed it is still referred to by locals and former staff.

My request is extremely straightforward as to information sought concerning this matter...Therefore I re-quote my request for your convenience.."

5. DPP provided its substantive response on 14 June 2012 and cited section 8(2)(c) of the Act. It explained that a request under the Act is required to be legible and capable of being used for subsequent reference. However, it considered that the request did not meet these requirements as it was unable to ascertain what information the complainant requested. Based on this explanation, the Commissioner considers that DPP intended to cite section 8(1)(c) of the Act as opposed to 8(2)(c). Section 8(1)(c) requires a request to describe the information requested.
6. Following an internal review DPP wrote to the complainant on 9 July 2012 upholding its original decision.

Scope of the case

7. The complainant contacted the Commissioner to complain about the way his request for information had been handled. He added that DPP has the information as it is a matter of record.
8. The Commissioner has therefore considered firstly, whether the request itself constituted a valid request under the Act and secondly, whether DPP was obliged to respond under section 1.

Reasons for decision

Was the request valid?

9. The Commissioner has first considered whether the request constituted a valid request under the Act. The Commissioner notes that an unclear description of the information requested does not make a request invalid. Many valid requests for information require clarification.

10. An invalid request would mean that there was no request and therefore no section 1 requirement to respond to an unclear request. The only obligation would be under section 16 to offer advice and assistance to someone proposing to make a request.
11. In this particular case the request was for information regarding an alleged dog attack and a Magistrates court hearing. Whilst it is unclear from the request when the alleged dog attack took place or the date of the Magistrates court hearing, the Commissioner considers that the request does contain some description. He has therefore concluded that the request was valid and has gone on to consider section 1(3) of the Act.

Section 1(3)

12. Section 1(3) of the Act states that:

"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 subsection (1) unless it is supplied with that further information."

13. The Commissioner has considered the request and notes that it neither refers to the name of the accused, the date on which the attack is alleged to have taken place, or the date of the Magistrates court hearing.
14. The Commissioner is also mindful that DPP contacted the complainant to request further details of his request to enable it to identify the case he was referring to. However, the complainant stated that the case is still referred to by locals and former staff and considered his request as straightforward without the need for further clarification.
15. Whilst the Commissioner acknowledges that an element of local knowledge may exist, he considers that it would not be possible to properly identify the information subject to the complainant's request without further details, including the date of the alleged dog attack and the date of the Magistrates court hearing. The Commissioner has therefore concluded that DPP, having requested these additional details was not obliged to respond to the request unless and until it received further clarification.

Right of appeal

16. 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

17. 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.
18. 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

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