

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 March 2014

Public Authority: The Information Commissioner's Office

Address: Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Decision (including any steps ordered)

1. The complainant has requested disclosure of information about ANPR cameras. The ICO provided the complainant with some information in response to this request but confirmed that it did not hold any further information relevant to the scope of the request.
2. The Commissioner considers that the ICO was correct to confirm that it did not hold any further information, other than that which was provided to the complainant, under section 1(1)(a) of the Freedom of Information Act 2000 (FOIA).
3. The Commissioner requires no steps to be taken.

Request and response

4. On 6 October 2013 the complainant made the following request for information under the FOIA for:

"Following your recent ruling regarding the Royston Anpr spy cameras, in which you judged that Hertfordshire Constabulary did indeed brake the law, and that it should be dismantled, due to the fact that the police did indeed not carry out any privacy impact assessment. I would like to make the following request.

The Police Service of Northern Ireland (PSNI) recently installed a massive and intrusive ANPR network that monitors every citizens motoring journeys without consent, the extent of which can be found here -

<http://goo.gl/maps/500g3>

Following a recent request it has been admitted by the PSNI that no Privacy Impact Check was carried out whatsoever.

Given that this is exactly the same situation as Royston, i request to know what action has been, or will be taken against the PSNI, and if no action has been or is going to be taken i would request a full and detailed explanation as to why."

5. On 24 October 2013 the ICO responded. It provided the complainant with some information relevant to the scope of the request.
6. The complainant requested an internal review on 25 October 2013. She said that in the event that no action has been, or is going to be taken against the PSNI, that a full and detailed explanation be produced by the ICO as to why this may be.
7. The ICO sent the outcome of its internal review on 8 November 2013. It upheld its original position, confirming that it held no further information relevant to the scope of the request. In particular it said that the FOIA does not oblige public authorities to produce or create information that is not already held in order to respond to a request for information. It said for this reason the complainant is not entitled to the requested explanation.

Scope of the case

8. The complainant contacted the Commissioner on 29 November 2013 to complain about the way her request for information had been handled.
9. The Commissioner has considered whether or not the ICO holds any further information other than that which has already been provided.

Reasons for decision

10. Section 1(1)(a) of FOIA states that, "Any person making a request for information to a public authority is entitled – to be informed in writing by the public authority whether it holds information of the description specified in the request".

11. The ICO explained that the focus of its internal search consultation was the departments which might hold relevant information. It said that it checked with its Northern Ireland office, its Enforcement department and its Strategic Liaison department. Each confirmed that it did not hold the requested information. As the responses were quite clear, that the ICO does not hold an explanation of why it had not investigated or taken action against the PSNI, it did not go on to further interrogate its systems for any information.
12. The ICO clarified that it does not have a business need to hold this information, nor is there a statutory obligation for it to do so. It confirmed that it does not seem at all likely that it would have previously held this information but deleted or destroyed it. Given that the events the complainant refers to took place in 2013, it should still hold the information had it ever been held. The ICO explained that this is because its standard casework retention is 2 years.
13. The ICO further explained that the request seems predicated on a slightly misplaced position, it states that

"Following your recent ruling regarding the Royston Anpr spy cameras, in which you judged that Hertfordshire Constabulary did indeed brake the law, and that it should be dismantled, due to the fact that the police did indeed not carry out any privacy impact assessment. I would like to make the following request".

The ICO clarified that the action taken against Hertfordshire is explained in the notice which can be accessed on the ICO website. While a Privacy Impact Assessment was not carried out in the Hertfordshire case, this is not the entire basis of the action taken. Each case is considered on its own merit and after a detailed investigation and site visit took place a decision was reached to issue an Enforcement Notice. This decision was based on the specific circumstances of the use of ANPR cameras in Hertfordshire. It confirmed that the investigation into Hertfordshire was instigated by a complaint made to the ICO. The ICO has not received a similar complaint about the use of ANPR by PSNI and it is not its intention to proactively review the use of ANPR across each police force. Given this, it summarised that there is no likelihood that it holds recorded information about why it is not investigating the use of ANPR by PSNI and therefore no recorded information about action that has or will be taken against PSNI.

14. The ICO also explained that the FOIA does not oblige a public authority to "produce a full and detailed explanation". It entitles requesters to recorded information where it is held. It is not held in this instance.
15. The complainant has not provided the Commissioner with evidence to support the position that the requested information is held.

16. Given the searches that have been carried out by the ICO and its confirmation that it has never held the requested information, the Commissioner considers that on the balance of probabilities the requested information is not held other than that which has already been provided to the complainant.

Right of appeal

17. 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: GRC@hmcts.gsi.gov.uk

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

18. 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.

19. 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

Pamela Clements
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SK9 5AF