

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 May 2016

Public Authority: Chief Constable of Thames Valley Police (TVP)

Address: Police Headquarters
Oxford Road
Kidlington
Oxon
OX5 2NX

Decision (including any steps ordered)

1. The complainant requested information about the policing and any court related costs incurred by Thames Valley Police (TVP) in relation to a specified alleged incident. TVP would neither confirm nor deny holding the information requested, citing the 30(3) (criminal investigations) and 40(5) (personal information) FOIA exemptions.
2. The Commissioner's decision is that the section 30(3) FOIA exemption is engaged and that the balance of the public interest favours maintaining the exemption. He therefore decided that TVP was entitled to rely on the exemption and he requires no steps to be taken to ensure compliance with the legislation.

Request and response

3. On 17 February 2016, the complainant wrote to TVP and requested information in the following terms:

"Please could I have details of the approximate costs that Thames Valley Police have spent on investigating in relation to the incident caused by [name removed] phone call to the police on the 7th April 2015 at [place name removed]."

I am interested in 4 areas of costs.

1. *Time and resources spent in attending on the day, including sending the three police cars to the incident.*

2. Time and resources in investigating the complaints against [name removed] and the two officers.

3. Time and resources spent by legal services in regards of my court action [name removed] vs Chief Constable.

4. Full costs spent on external legal advice and representation for the case as above.

The costs incurred were:

2 Under the supervision of [name removed]

3 Under the supervision of [name removed]

4 To the law firm [address removed]

If the final total is accurate to the nearest £500 that would be sufficient."

4. TVP responded on 19 February 2016 saying that the force could neither confirm nor deny holding the information requested and relying on the exemptions at sections 30(3) and 40(5) FOIA.
5. Following an internal review TVP wrote to the complainant on 24 March 2016 confirming its decision and again relying on the exemptions at sections 30(3) and 40(5) FOIA.

Scope of the case

6. The complainant contacted the Commissioner on 6 March 2016 to complain about the way his request for information had been handled and what he regarded as obstruction by TVP in refusing to provide information that he needed to inform other connected proceedings.
7. The Commissioner has considered whether or not TVP was entitled to neither confirm nor deny holding the requested information.

Reasons for decision

8. TVP told the Commissioner that the complainant had been provided with information about certain costs incurred by the law firm named at part 4 of the request. However TVP refused to either confirm or deny holding any more of the information requested and relied upon the section 30(3) and section 40(5) FOIA exemptions.

Section 30 – Investigations and proceedings conducted by public authorities

9. Section 30(3) FOIA provides an exclusion from the duty to confirm or deny whether information is held in relation to any information which, if held, would fall within any of the classes described in sections 30(1) or 30(2). In this case, TVP relied on section 30(3) as any relevant information it did hold would be exempt by virtue of section 30(1). This subsection covers information that was at any time held for the purposes of an investigation which TVP had a duty to conduct with a view to it being ascertained whether a person should be charged with an offence.
10. Consideration of section 30(3) FOIA is a two-stage process. First, the exemption must be engaged, which it will be where the wording of the request suggests that any information falling within the scope of it would be within any of the classes described in sections 30(1) or 30(2). Secondly, this exemption is qualified by the public interest, which means that the confirmation or denial must be made if the public interest in maintaining the exemption does not outweigh the public interest in disclosure.
11. The first step is to address whether, if TVP did hold information falling within the scope of the complainant's request, this would fall within the class specified in section 30(1) FOIA. The wording of the request is specifically for information relating to an alleged police investigation and any court proceedings that might have arisen from it. The Commissioner is therefore satisfied that any information held by TVP falling within the scope of the request would be within the class described in section 30(1); that is, it would be held for the purposes of an investigation into whether a person should be charged with an offence. The exemption provided by section 30(3) is, therefore, engaged.
12. The next step is to consider the balance of the public interest. In reaching a conclusion on the balance of the public interest in this case, the Commissioner has considered what public interest there is in confirmation or denial. The Commissioner also considered whether confirmation or denial would be likely to harm any investigation that might be being carried out by TVP, which would be counter to the public interest, and what weight to give to these public interest factors.
13. The complainant told the Commissioner that it was common practice for the police to publish cost information, particularly when there had been a failure in service. He said that TVP had tried to cover up seriously inappropriate behaviour by its officers and had funded a completely unnecessary court action. He was concerned at what he saw as a significant waste of taxpayers' funds and a disproportionate and biased

approach to serious criminal investigations on the part of TVP. He believed that TVP were incurring heavy costs in fighting a small civil action while refusing all attempts at mediation, behaviour by TVP that he believed was irrational and disproportionate.

14. Also in favour of confirming or denying that the requested information is held is that doing so would provide transparency. This would enable better public understanding of when and how TVP undertake investigations and provide greater accountability for the associated costs. It would help to inform and reassure the public about the ways in which TVP was exercising its functions and was held accountable.
15. When considering the case for not confirming or denying whether the information was held, TVP said that confirmation or denial might jeopardise any further investigative measures or any associated legal case; it would not be in the public interest to confirm or deny that information is or is not held, if to do so might adversely impact on an investigation. TVP added that in some cases confirmation or not could disclose information that would be harmful in the context of the force's responsibilities to victims of crime and to complainants.
16. During his investigation TVP confirmed to the Commissioner that certain aspects of any investigation there may be would still be in progress and therefore 'live'. The section 30 exemption exists to ensure the effective investigation of alleged offences. The Commissioner accepts that TVP has a legitimate requirement for a safe space in which to operate and that premature disclosures such as confirming or denying this matter could hamper police consideration of how best to proceed or investigate. Strong weight should therefore be accorded to maintaining the exemption.
17. The Commissioner recognises the public interest in the MPS confirming whether or not it is carrying out an investigation, and being as open as possible with the public about its methods and the costs incurred. However, he also recognises that a confirmation or denial in relation to an ongoing investigation could be harmful to any such investigation. Disclosures of information that risk of compromising a police investigation would not be in the public interest.
18. Having considered all the circumstances the Commissioner has concluded that the public interest in maintaining the section 30(3) FOIA exemption outweighs the public interest in confirmation or denial. TVP is not, therefore, obliged to confirm or deny whether it holds this information.
19. Given this conclusion, it has not been necessary for the Commissioner to go on to consider the section 40(5) FOIA exemption.

Right of appeal

20. 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

21. 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.
22. 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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Wilmslow
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SK9 5AF