

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 July 2016

Public Authority: Chief Constable of Hampshire Constabulary

Address: Mottisfont Court
Tower Street
Winchester
Hampshire
SO23 8ZD

Decision (including any steps ordered)

1. The complainant requested information about whether DNA evidence held by Hampshire Constabulary (the police) in the case of the murder of Mrs Georgina Edmonds related only to a single specific individual or could possibly relate to any other individuals who may also have had some connection with the crime.
2. The Commissioner decided that, on an objective reading, the request was open to more than one interpretation. The Commissioner's approach to section 1(3) FOIA is that a public authority must seek clarification of a request whose meaning is not clear or is open to more than one objective reading.
3. The police did not clarify with the complainant which interpretation he had intended. Accordingly the Commissioner decided that the police had not complied with section 16(1) FOIA.
4. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation: to clarify with the complainant exactly what information it was that he wished to receive
5. The police must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

6. In March 2016 the complainant wrote to the police and requested information in the following terms:

"I would like to know whether DNA evidence held by the police in the case of the murder of Georgina Edmonds relates only to a single specific individual, or is evidence held that could possibly relate to other individuals, evidence that could convict an/ any accomplice/s involved or connected with the crime?"

7. The police responded, first on 23 March 2016 and again, following an internal review, on 19 April 2016. The police said that many hundreds of DNA samples had been taken during their investigation into the 2008 murder of Mrs Edmonds. DNA linked to the case had been the subject of two court cases and had resulted in the conviction of a single named individual. The police said that the information requested was not held by the force.

Scope of the case

8. The complainant contacted the Commissioner on 21 April 2016 to complain about the way his request for information had been handled. He said that he believed the police response to his request was subject to an interpretation that was not valid or in accordance with accepted facts concerning the subject of his request. He added that he resented the sort of treatment that he had received from the police in connection with his request, which he considered to be 'bureaucratic' indifference and disregard for himself and for FOIA.
9. The Commissioner considered whether or not the police had taken sufficient steps to be sure what information was being requested and what information was held that fell within the scope of the request.

Reasons for decision

Section 1 – general right of access

10. Section 1(1) FOIA states that anyone making a request for information to a public authority is entitled to be informed whether the public authority holds the information, and if so, to have that information communicated to him.

11. Section 1(3) FOIA provides that where a public authority reasonably requires further information in order to identify and locate the requested information and it requests this from the applicant, it need not comply with section 1 until the further information is supplied. The Commissioner's approach is to expect that a public authority will seek clarification of a request where its meaning is not clear, or where its meaning is capable of more than one objective reading.
12. The police said that no recorded information was held that fell within the scope of the request. The police confirmed to the Commissioner that a considerable quantity of DNA evidence was held and that this had been collected during the investigation of this matter. However, the police added that, from the evidence before them, they were very clear that the only person responsible for Mrs Edmonds' murder had been convicted. As such, there was no information held which fell within the scope of the request.

Section 16 – advice and assistance

13. Section 16(1) of the FOIA provides that a public authority should give advice and assistance to any person making an information request.
14. The Commissioner noted that, on an objective reading, the request was open to more than one interpretation. It could relate either to: whether the DNA evidence held by the police related only to one person; or, whether the police held DNA evidence, collected for the purposes of this investigation, that related to any other people. Accordingly the Commissioner decided that the intention of the requestor had not been clear. The police did not engage with the complainant and clarify which of these possible interpretations the complainant had intended when making his request.
15. The Commissioner decided that the Constabulary breached section 16(1) FOIA by failing to give appropriate advice and assistance to the complainant. She requires them now to clarify with the complainant which objective reading of the request he intended and respond accordingly.

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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

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

Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF