

Freedom of Information Act 2000 (FOIA) Decision notice

Date: **15 December 2022**

Public Authority: **Isle of Anglesey County Council**

Address: **Council Offices
Llangefni
Anglesey
LL77 7TW**

Decision (including any steps ordered)

1. The complainant has requested information regarding emails between the Council and North Wales Police. The Isle of Anglesey County Council ("the Council") disclosed some information and relied on section 31(1)(a) of FOIA to withhold two emails in scope of the request.
2. The Commissioner's decision is that the Council was entitled to rely on sections 31(1)(a) of FOIA to refuse to disclose the withheld information and the public interest favours maintaining the exemption.
3. No steps are required as a result of this decision notice.

Request and response

4. On 13 September 2022, the complainant wrote to the public authority and requested information in the following terms:

"I have asked for the emails on the dates you noted between (name redacted) and the Police - this should be provided in full by 17/9/22.

(name redacted) contacted the police **seven times**.

1/7/21 (name redacted)

20/08/2021 (name redacted)

Following a request made on 01/07/21 due to no reply from North Wales Police

20/08/2021 (name redacted)

response to a North Wales Police question

02/09/2021 (name redacted)

response to a North Wales Police question

14/10/2021 (name redacted)

request to North Wales Police to share data with (name redacted)

22/11/21 (name redacted)

4/2/22 (name redacted)

He actually lied to me on 1/7/21 and 20/8/21 telling me he was only seeking advice from "our lawyer". I am stunned he was onto the police within only weeks of receiving a simple light / run off complaint."

5. On 22 September 2022 the Council responded answering the first five points but refused to provide the requested information for the final two points citing section 31(1)(a) of FOIA as its basis for doing so.
6. The complainant replied on the same day and argued that:

"I need both messages by (name redacted) to Police that have been left out - was it aiding a malicious prosecution? **He had asked me for my police dealings on this day 20/8/21. He had no right to do that did he – it's not his role to do that.**

This needs to be provided to myself and added to my complaints against (name redacted)."

7. The Council upheld its original position at internal review.

Reasons for decision

Section 31 – Law enforcement

8. The following analysis sets out why the Commissioner has concluded that the Council was entitled to rely on section 31(1)(a) of FOIA in this particular case.
9. Section 31(1)(a) of FOIA allows a public authority to withhold information if its disclosure under the Act would, or would be likely to, prejudice the prevention or detection of crime.
10. The Council explained that the exemption had been applied to withhold the information within the email as it would be considered by the Police for any current or future investigation into incidents reported.
11. The Council argued that it had an obligation to protect information from public release relevant to any investigation and which would have the effect of prejudicing law enforcement activity.
12. The Commissioner accepts that the potential prejudice described by the Council clearly relates to the interests which the exemption contained at section 31(1)(a) of FOIA is designed to protect.
13. The Commissioner is also satisfied that the prejudice being claimed is "real, actual or of substance", and that there is a causal link between disclosure and the prejudice claimed. It is clearly logical to argue that the disclosure of information associated with specific properties, is an easy way to identify them. The Commissioner therefore considers that the exemption is engaged.
14. Having considered all the circumstances in this case, the Commissioner has therefore decided that section 31(1)(a), with subsection 31(1)(b) is engaged. He has gone on to consider the public interest.

Public Interest Test

15. Section 31(1)(a) is a qualified exemption and is subject to the public interest test set out in section 2(2)(b) of FOIA. The Commissioner has considered whether, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosure.

16. In balancing the public interest arguments, the Commissioner accepts that disclosure would to some extent help to increase openness and transparency of the Council's function in respect of how it engages with other public bodies. He acknowledges that there is availability of the Council's policies relating to complaints handling and engagement with third parties. However, the Commissioner also acknowledges that there is a clear public interest in protecting society from the impact of crime, as this helps prevent the criminal acts which adversely impact on the public's wellbeing and on the public purse.
17. The Commissioner recognises that information relating to correspondence with the Police regarding the specific issues, is of interest to the complainant as it could help in assessing what information the Council holds and is sharing. It could possibly indicate the corporate approach to the scale of the issue. However, disclosure under FOIA is disclosure to the world at large and not just the requester in this case. The Commissioner is not able to take into account the private interests of the complainant in his decision. He must therefore consider whether the information is suitable for disclosure to everyone.
18. Disclosing information regarding specific properties within an area, would be likely to prejudice any current or future investigation and therefore the potential detection and prevention of crime. Having found the exemption is engaged as disclosure would be likely to result in prejudice to the prevention or detection of crime, the Commissioner believes that this outcome would be counter to the public interest. The Commissioner concludes that the public interest in maintaining the exemption outweighs the public interest in disclosure.

The Commissioner's conclusion

19. The Commissioner has reviewed both the complainant's requests and the public authorities' responses. The Commissioner is satisfied that disclosure of the withheld information within scope of points 6 and 7 of the request, would be likely to prejudice the prevention or detection of crime.
20. Therefore, the Commissioner's view is that the balance of the public interests favours the maintenance of the exemption, rather than being equally balanced. This means that the Commissioner's decision, is that the exemption provided by section 31(1)(a) was applied correctly.

Right of appeal

21. 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: 0203 936 8963
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

22. 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.
23. 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

Phillip Angell
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