

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 15 September 2015

**Public Authority:** Chief Constable of North Wales Police

**Address:** Police Headquarters

Glan-y-Don

Abergele Road

Colwyn Bay

LL29 8AW

### **Decision (including any steps ordered)**

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1. The complainant requested information about the National Driver Offender Retraining Scheme. North Wales Police stated it did not hold the information requested but provided some general information about the scheme in question. During the course of the Commissioner's investigation, North Wales Police disclosed some information but maintained that it did not hold any further recorded information relevant to the request. The Commissioner is satisfied that, on the balance of probabilities, North Wales Police does not hold any further recorded information. However, in failing to respond to the request within the appropriate timescale, North Wales Police breached section 10 of the FOIA. The commissioner does not require any steps to be taken.

### **Request and response**

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2. On 14 September 2014 the complainant wrote to North Wales Police regarding a particular educational driver training programme and requested information in the following terms:

"I wish to make a request under the freedom of information legislation. I note that the Chief Constable has abrogated his responsibilities to his 'professional' body (ACPO), which in turn has hired the AA as contractors to implement one aspect of the procedures. The booklet used was published by the Thames Valley Police for and on behalf of the National Driver Offender Retraining Scheme. Since these procedures are

a substitute for judicial proceedings it is reasonable to assume that the information requested is or should be available to the public.

I wish to have a copy of the instruction to/contract between the North Wales Police and ACPO and ACPO and the AA, In addition I wish to have further and better particulars about the National Driver Offender Retraining Scheme, for example who is it answerable to, what is its remit, who runs it. In addition I wish to have a copy of the contract between this organisation and the Thames Valley Police relating to the preparation of the booklet 'Your Belt – Your Life.' Who holds the copyright – Thames Valley Police or the 'Scheme?' I also request a copy of the permission given by the copyright holder to ACPO and subsequently the AA to use the document".

3. North Wales Police responded on 5 February 2015 and stated that it did not hold the specific information requested. However, it stated that there was some information in relation to "Your Belt – Your Life" in the public domain. It considered section 21 to apply to this information and provided links to the relevant websites/webpages.
4. The complainant wrote back to North Wales Police requesting an internal review of its handling of the request. He also pointed out that he did not have access to the internet.
5. North Wales Police provided the outcome of its internal review on 27 March 2015 and upheld its original decision relating to the request. However, as the complainant did not have access to the internet, it provided hard copies of the publicly available information referred to in its original response.

### **Scope of the case**

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6. The complainant initially contacted the Commissioner on 16 December 2015 to complain about the lack of response to his request. The Commissioner wrote to North Wales Police on 13 January 2015 reminding it of its obligations under the FOIA and asked it to respond to the request within 20 working days. North Wales Police responded on 5 February 2015.
7. The complainant contacted the Commissioner again on 1 April 2015 having received the outcome of North Wales Police's internal review response to complain about the way his request for information had been handled.
8. During the course of the Commissioner's investigation, North Wales Police identified one document which fell within the scope of the request,

which it disclosed to the complainant along with an amended response to his request. North Wales Police stated that, other than the information disclosed, it did not hold any further recorded information relevant to the request.

9. The Commissioner considers the scope of this complaint is to determine whether North Wales Police holds any further information relevant to the request of 14 September 2014.

## **Reasons for decision**

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### **Section 1 – general right of access**

10. Section 1 of the FOIA states that any person making a request for information is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request and, if that is the case, to have that information communicated to him.
11. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the authority to check that the information is not held and he will consider any other reasons offered by the public authority to explain why the information is not held. He will also consider any reason why it is inherently likely or unlikely that information is not held. For clarity, the Commissioner is not expected to prove categorically whether the information was held; he is only required to make a judgement on whether the information was held on the civil standard of the balance of probabilities.
12. As stated earlier in this notice, during the Commissioner's investigation, North Wales Police issued an amended response to the complainant, along with a document identified as falling within the scope of the request. The document in question is a letter from the Association of Chief Police Officers to all Chief Constables and Commissioners about driver education courses. The letter confirms that a contractor for delivery of the "Your Belt-Your Life" course had been appointed following a procurement exercise and was available for delivery under any service concession which may be operated by a police force.
13. In terms of the searches conducted to identify any information relevant to the request, North Wales Police confirmed that searches were undertaken in the departments that would potentially hold information relating to the request. The departments searched were:

- Administration of Justice Department - which deals with motor offences and retraining courses
  - Legal – which holds contract information
  - Procurement – which holds contract information
  - National Driver Offender Retraining Scheme (NDORS) – which runs the driver educational courses
  - Central Referral Unit – which offers advice from a national perspective
14. North Wales Police provided the Commissioner with some background information about the subject matter of the request ie the “Your Belt Your Life” course to explain the absence of recorded information. The roles of the various organisations in the scheme are as follows:
- NDORS run the “Your Belt Your Life” scheme
  - Thames Valley Police were the lead force on the project.
  - North Wales Police, along with all other police forces now use the scheme.
15. Thames Valley Police, assisted by members of the NDORS, ran a successful procurement process on behalf of the ACPO road policing department to deliver an e-learning package to seatbelt offenders. Thames Valley Police conducted a full OJEU procurement process and awarded a contract to the successful bidder AADrivetech Ltd (‘AADT’) for the design, build and provision of the “Your Belt Your Life” course. The contract was for an initial 3 year period, with an option to extend for a further two one-year periods. The first extension was granted in October 2014 and is due to be reviewed later in 2015. The contract for provision of the course is a national one, which is managed by Thames Valley Police.
16. The “Your Belt Your Life” course is primarily delivered by an online portal whereby an offender, on accepting and paying for the course, is given a unique reference number. This reference number allows the individual to access the portal and undertake the work tasks by working their way through a series of exercises. At the end of the exercises the individual will either pass or fail the course. In order to meet the needs of fairness and equality, North Wales Police insisted that the contract should include a workbook element for those who cannot or choose not to access the online portal. These workbooks are distributed by the contractor AADT who are also responsible for marking the workbooks to determine whether the individual has passed or failed.

17. North Wales Police advised that the NDORS management are employed by RSS Ltd, who have a trading arm for the purposes of NDORS which is registered at Companies House as NDORS Ltd. The role of RSS Ltd and NDORS Ltd are purely to provide business support to the NDORS management to facilitate delivery and development of the scheme. RSS Ltd and NDORS Ltd receive remuneration for their services from the central levy which is taken from each offender passing through the course.
18. North Wales Police confirmed that it was not a party to the contract in place for provision and delivery of the course as it was set up by Thames Valley Police on a national basis. As such, North Wales Police stated that there is no contract between itself and ACPO. In addition, North Wales Police does not hold a copy of any contract between ACPO and AADT. Any force wishing to utilise the course needs to make contact with NDORS who provide details of the relevant contact within Thames Valley Police who then instruct on how to facilitate use of the "Your Belt Your Life" course.
19. Based on the representations provided by North Wales Police the Commissioner is satisfied that it has carried out adequate searches of the places where relevant information would be held. There is no evidence of any inadequate search or grounds for believing there is a motive to withhold information. The Commissioner has also considered North Wales Police's representations in relation to the subject matter of the request, and its involvement and role in the "Your Belt Your Life" scheme. Based on the searches undertaken and the other explanations provided, the Commissioner is satisfied that, on the balance of probabilities, North Wales Police does not hold any further recorded information relating to the request.

## **Section 10 – time for compliance**

20. Section 1(1) of the FOIA says that when someone requests information from a public authority, the authority must tell the requester if it holds the information and, if it does, it must communicate that information to the requester. Section 10(1) says that a public authority must comply with section 1(1) within 20 working days.
21. In this case, the complainant requested information on 14 September 2014 and did not receive a substantive response until 5 February 2015. The Commissioner notes that North Wales Police stated that it did not receive the original request until the Commissioner's letter of 14 January 2015. However, in failing to respond to the request within the required timescale, North Wales Police breached section 10 of the FOIA.

## Right of appeal

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22. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

23. 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.
24. 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**