

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 November 2017

Public Authority: Chief Constable of Hampshire Constabulary
Address: Police Headquarters
West Hill
Romsey Road
Winchester
Hants
SO22 5DB

Decision (including any steps ordered)

1. The complainant has requested from the Hampshire Constabulary (the Constabulary) information regarding the number of stop and searches conducted by the police force on people aged under 18 for each financial year from 2009 to 2015.
2. The complainant did not dispute the Constabulary's response that the information related to 2009/10 and 2010/11 was not held and that the application of section 21(1) (information reasonably accessible by other means) with regard to financial years 2011/12, 2012/13 and 2013/14 was appropriate. Accordingly the Commissioner only investigated the application of section 21(1) to the information in relation to the financial year for 2014/15.
3. The Commissioner's decision is that the Constabulary incorrectly applied section 21(1) in this case.
4. However, as the information was subsequently provided, and now is accessible to the complainant, the Commissioner requires no steps to be taken.

Request and response

5. On 23 June 2017, the complainant wrote to the Constabulary and requested information in the following terms:

*"Under the Freedom of Information Act, please could you provide me with the following information
the number of stop and searches conducted by the police force on people aged under 18 in each of the following years: 2009/10, 2010/11, 2011/12, 2012/13, 2013/14 and 2014/15.*

If possible, please could you also provide a breakdown by the object of search and by outcome."

6. The Constabulary responded on 24 July 2017 stating that *"Stop search information has been disclosed previously under FOI and is published on the Hampshire Constabulary web site..."* providing the links where the complainant could access the information, as requested previously by other applicants.
7. On 28 July 2017 the complainant contacted the Constabulary and explained that not all the information that she requested was accessible through the links provided and that the information was requested to be broken down in financial year format.
8. On 2 August 2017 the Constabulary provided an additional link complementing the previous response and explained that they did not hold the requested information for the period 2009/10.
9. Remaining dissatisfied, the complainant requested an internal review on 9 August 2017, claiming that the Constabulary could not rely on section 21 if, on the date of the request, the published information was not available in the specified format and did not include the 2014/15 financial year data.
10. Following an internal review the Constabulary wrote to the complainant on 5 September 2017. It informed the complainant that it upheld its original position with respect to 21(1) stating that:

"I can confirm that unfortunately I don't believe that there is a requirement for us to provide you with information requested in the format you have suggested".

Scope of the case

11. The complainant contacted the Commissioner on 5 September 2017 to complain about the way her request for information had been handled. In particular, she disputed the application of section 21 to the 2014/15 financial year information.
12. The analysis below considers the Constabulary's application of section 21 of the FOIA to this information.

Reasons for decision

Section 21 - Information reasonably accessible to the applicant by other means

13. Section 21 (1) of the FOIA provides that a public authority does not need to provide information under section 1 of the FOIA if that information is reasonably accessible to the complainant by other means.
14. Section 21 provides an absolute exemption. This means that if the requested information is held by the public authority, and it is reasonably accessible to the applicant by other means, it is not subject to the public interest test.
15. In order for section 21 to apply there should be another existing, clear mechanism by which the particular applicant can reasonably access the information outside of the FOIA. Furthermore, for section 21 to apply, it is necessary to consider whether the entirety of the information is reasonably accessible to the applicant.
16. Information is only reasonably accessible to the applicant if the public authority:
 - Knows that the applicant has already found the information; or
 - Is able to provide the applicant with precise directions to the information so that it can be found without difficulty.
17. In its responses of 24 July and 2 August, the Constabulary provided the complainant with a number of links to the Constabulary's web archive. It claimed that most of the information requested was previously published in its responses to previous requests, while for the rest of the

information it instructed the complainant to extract it from the following link: <http://data.police.uk/data>.¹

18. The Commissioner also followed the links and found that 3 out of 9 links provided were not accessible, while the information from the following link: <http://data.police.uk/data> can only be extracted from September 2014 and onwards, which leaves uncovered 5 months (April-August) of 2014. Consequently, it does not provide the complete information for the financial year 2014/15 as requested by the complainant.
19. In the case of *The London Borough of Bexley and Colin P England v Information Commissioner (EA/2006/0060 & 0066, 10 May 2007)*² the Information Tribunal considered whether the fact that 70% of the requested information was available to the applicant meant that it was reasonably accessible or whether all the information had to be reasonably accessible.
20. As we have seen, the word "reasonably" does qualify the word "accessible", but it does so in the sense that the mechanism available to the particular applicant for accessing the information must be reasonable, rather than whether a reasonable amount of the information is available elsewhere. Therefore, for section 21 to apply, it is necessary to consider whether the entirety of the information is reasonably accessible to the applicant. Section 21 will only apply to the extent that any of the requested information is in fact reasonably accessible to the applicant.
21. During the course of the investigation, the complainant made a separate request for information related to stop and search. The Constabulary's response, and the information provided for the period 01/04/17 to 30/11/2017, allowed the complainant to compile the information requested in this case for the 2014/15 financial year.
22. The Commissioner considers however that having to submit an additional information request to receive the outstanding portion of information does not amount to reasonable accessibility for the purpose of the FOIA.
23. It is clear to the Commissioner then, from the Constabulary's responses to the complainant and its correspondence with the complainant, that the information requested at the time of the request was not publicly available and accessible from the links provided. The Commissioner is

¹ The data on this site is published by the Home Office, and is provided to us by the 43 geographic police forces in England and Wales, the British Transport Police, the Police Service of Northern Ireland and the Ministry of Justice.

² <http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i146/ENgland.pdf>

therefore satisfied that the Constabulary incorrectly applied the exemption set out in section 21 of the FOIA.

24. However, as it is evident from the latest response provided to the complainant that the missing information is now accessible to the complainant, the Commissioner considers that there is no outstanding information to be provided.

Right of appeal

25. 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

26. 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.
27. 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

Alun Johnson
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