

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 September 2023

Public Authority: Independent Office for Police Conduct

Address: PO Box 473
Sale
M33 0BW

Decision (including any steps ordered)

1. The complainant has requested information from the Independent Office for Police Conduct ('IOPC'). The IOPC, among other exemptions, has cited section 23(1) of FOIA as a basis for non-disclosure. The complaint which is the subject of this decision notice solely relates to the application of section 23(1) of FOIA.
2. The Commissioner's decision is that the IOPC has correctly applied section 23(1) to the relevant part of the requested information.
3. Therefore the Commissioner requires no steps to be taken by the IOPC.

Request and response

4. On 13 July 2022 the complainant made the following request to the IOPC:-

"According to [reference to journalistic content redacted] at the time of his death, [name redacted], was under investigation for his alleged role in the regional child sex abuse scandal. See also [reference to journalistic content redacted] ...

REQUEST

"Disclose:

1. The police disciplinary/personal investigatory record of [name redacted]. This includes but is not limited to punishments or censure or other disciplinary matters.
2. All complaints made against [name redacted]. This includes but is not limited to child abuse and sexual matters.
3. All IPCC/IOPC and police reports relating to misconduct, wrongdoing, etc. by [name redacted].

You may redact any personal data as defined by law.”

5. The IOPC responded to the complainant on 11 August 2022, stating that it was refusing to confirm or deny whether it held the requested information under sections 38(2) (health and safety) and 44(2) (prohibitions on disclosure) of FOIA.
6. The complainant requested an internal review on 11 August 2022, stating that the IOPC had already confirmed in a previous FOIA request that it held the requested information.
7. In its internal review response to the complainant on 8 September 2022 the IOPC stated that it was upholding its original decision.
8. On 16 May 2023, further to the Information Commissioner's decision notice of 19 April 2023 under reference IC-191112-Q6J1, the IOPC issued a revised response to the complainant.
9. That revised response stated that the IOPC was withdrawing its reliance upon the previous exemptions, was confirming that it held the requested information, and was now applying sections 23(1) (security bodies) 30(1)(a)(i) (investigations and proceedings), 38(1)(a), 40(2) (personal information) and 44(1)(a) as a basis for non-disclosure.

Scope of the case

10. The complainant contacted the Commissioner on 14 June 2023. Their complaint solely relates to the IOPC's application of section 23(1) to part of the requested information.
11. The Commissioner has considered the IOPC's application of the exemption at section 23(1) to the complainant's request as set out in FOIA.

Reasons for decision

12. Under section 23(1) of FOIA, information is exempt information if it was directly or indirectly supplied to the public authority by, or relates to, any of the security bodies specified in subsection (3).
13. In its revised response of 14 June 2023 the IOPC stated that this exemption is engaged by some of the requested information because it relates to the National Crime Agency (NCA). The NCA is one of the security bodies listed under section 23(3).
14. In the case of *Lownie v IC & FCO*¹ the Upper Tribunal found that the phrase 'relates to' includes both a direct and indirect connection (paragraphs 59 and 60). Furthermore, the Commissioner's guidance on section 23 explains the interpretation of 'relates to' as including any information concerning or linked to the activities of a security body.
15. The IOPC has provided evidence to the Commissioner in confidence that part of the requested information 'relates' to a body specified in subsection (3), i.e. the National Crime Agency and in particular to Operation Stovewood, which is the NCA's investigation into child sexual abuse in Rotherham. The Commissioner is satisfied that this is the case. As such, the Commissioner's decision is that the IOPC has correctly applied section 23(1) of FOIA to part of the information it holds falling within the scope of the complainant's request and is entitled to withhold it.
16. Section 23 is an absolute exemption and is not subject to the public interest test except in the case of historical records, which does not apply to the current case.

Right of appeal

17. 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,

¹ GIA/2690/2018

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

18. 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.
19. 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

Deirdre Collins
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF