

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 September 2024

Public Authority: Chief Constable of Staffordshire Police
Address: Weston Road
Stafford
ST18 0YY

Decision (including any steps ordered)

1. The complainant has requested information about the sharing of information following road traffic collisions. The above public authority's ("the public authority") final position was that it held no information within the scope of the request.
2. The Commissioner's decision is that the public authority does not hold any further information within the scope of the request apart from that which it has already disclosed to the complainant and that which is already reasonably accessible to him. The public authority breached section 10 of FOIA as it failed to respond to the request within 20 working days.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 20 February 2024, the complainant requested information of the following description:

"I ask to be provided with the information you possess relating to the disclosure of information following a road traffic collision to insurers from 01/01/2023 to the present date:

- Your policies
- Changes to the processes/procedures

- The consideration following receipt of the NPCC 'all chef [sic] constables' circular of 30/05/2023.
 - The differentiation between disclosures to [Association of British Insurers] ABI, non-ABI members and others"
5. On 30 April 2024, the public authority responded. It relied on section 21 of FOIA (reasonably accessible) to withhold the information it held within the scope of element 1 of the request and denied holding information within the scope of the remaining parts. It maintained this stance following an internal review.

Reasons for decision

6. Section 1 of FOIA requires a public authority to tell a requester whether the information they have requested is held and, if it is, to provide a copy.
7. Where there is a dispute over the extent of the information a public authority holds. The Commissioner must consider whether it is more likely than not that the public authority has disclosed all the information it holds.
8. The subject matter of this decision notice involves the processing, by the public authority, of requests by insurers, loss adjusters and other third parties for information on road traffic collisions specifically for use in the course of civil litigation. All references below to the "processing of requests" or similar refer to this specific type of request. They do not refer to the public authority's handling of FOIA or SAR requests.

The public authority's position

9. The public authority explained to the Commissioner (and has explained to the complainant in response to other requests he has made) that in mid-2023, it decided that it no longer had the capacity to process disclosure requests made by third parties for the purpose of civil litigation. As a result, it was not currently responding to any such requests and wouldn't be until it had sufficient capacity to process them.
10. In respect of the first two parts of the request, the public authority noted that it had stopped processing any requests and the complainant was already aware of this. It noted that, prior to stopping processing, it had not had its own policy and it had not been following national guidance either (although it had directed the complainant to these links).
11. As a result, the public authority argued that:

- a) its currently "policy" was not to process any requests at all (which it had informed the complainant of already); and
 - b) prior to that it had no policy, so held no other information; and
 - c) to the extent that its "policy" had changed from b) to a), the complainant had already been made aware; and
 - d) therefore it had no further recorded information it could give the complainant.
12. In relation to part 3 of the request, the public authority explained that it had received the letter in question but, because the letter relates to the lawful basis in data protection law for the sharing of information via the processing of requests and because it is not processing any requests, there was no need to "consider" the letter internally.
13. Once the public authority had sufficient capacity to begin processing these sorts of requests again, it explained, it would need to consider the contents of the letter and review its processes accordingly. However, for now, the letter has essentially been filed until there is a realistic prospect of the public authority being able to process requests once again.
14. In respect of part 4, it said it did not hold any information within scope. It was not treating different types of requester differently because it was treating them all the same: none of them were having their requests processed. Therefore it could not hold information about any differential treatment.

The complainant's position

15. The complainant argued that the public authority must hold a lot more information that fell within the scope of his request.
16. He argued that the public authority had changed its processes in 2023. Those processes could not have been changed without a review, discussions, memos and his request would capture any records of internal discussions about the change.
17. In respect of part 3 of the request he argued that this was an important letter and therefore the public authority would need to have considered it.
18. In respect of part 4, he argued that non-ABI members were being treated differently and therefore the public authority must hold some recorded information that would explain the difference. It was not clear

whether he was referring to the situation since the public authority stopped processing requests or before.

The Commissioner's view

19. In the Commissioner's view the public authority has provided all the information it holds.
20. It is convenient to deal with the parts of the request in reverse order.
21. In respect of part 4, the public authority has said it is not processing requests from any requester, regardless of their affiliation to the ABI and no evidence has been put forward to suggest otherwise.
22. To the extent that the complainant thinks non-ABI requesters are **currently** being disadvantaged, this appears to be based on a misconception that the public authority **is** fulfilling ABI member requests, but not those from non-ABI members. It is not and therefore cannot hold recorded information.
23. To the extent that the complainant is referring to the situation **before** the public authority stopped processing requests, the public authority has explained that it had no policy or procedure in place and was not following national guidance. No evidence has been put forward to contradict this and the public authority cannot provide what it doesn't hold.
24. In respect of part 3, the public authority has been candid about the capacity issues it has faced. It has explained that there is no point in it considering issues relating to the sharing of personal information until such times as it has the capacity to share any information at all. A public authority does not need a lawful basis for a specific type of processing of personal information if it is not doing any of that processing.
25. It is not for the Commissioner (in a FOIA decision notice) to determine whether the public authority ought to have considered the letter or what consideration should have been given. The public authority has stated that it has not considered the letter yet and there is no evidence to suggest that it has.
26. Finally, the Commissioner turns to parts 1 and 2. He accepts that the public authority has set out its current policy (no processing of requests) and explained why it has made this decision. Whether or not the complainant agrees with that decision is a matter for him. To that extent, information on the current policy and the fact that the policy has changed has already been provided to the complainant.

27. Prior to the change, the public authority maintains that it did not have a policy and was not following national guidelines. Whether it was following the national guidelines or not is irrelevant in this context as the guidelines are already accessible to the complainant.
28. No evidence has been put forward to suggest that the public authority did in fact have a policy prior to suspending processing of requests. Whether the public authority was wise to carry out processing without a policy in place is not a matter for the Commissioner – at least in a FOIA decision notice.
29. The complainant is of the view that his request entitles him to receive all the public authority's internal thinking about the suspension of request processing. In the Commissioner's view that is not an objective reading of the request.
30. The request began "I ask to be provided with the information you possess **relating to the disclosure of information** following a road traffic collision to insurers from 01/01/2023 to the present date." The request then goes on to list various categories of information. An objective reading of that request is that the complainant was interested in the disclosure of information, the four categories being the particular information he wanted to see: the polices; the changes; the consideration (of the NPCC letter); and the differing procedures for ABI and non-ABI members.
31. The complainant seems to be arguing that he requested all information relating to the development of policies and changes to policies, but the Commissioner does not accept that this is an objective reading of the request. The focus of the request was on the disclosure of information to insurers, not on the policy changes themselves. It is open to the complainant to make a fresh request for that information, should he wish to do so.
32. On an objective reading of the request, the Commissioner is satisfied that the public authority has provided all the information it holds.

Procedural matters

33. The public authority breached section 10 of FOIA as it failed to inform the complainant, within 20 working days, that it did not hold the information he had requested.

Right of appeal

34. 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

35. 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.
36. 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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF