

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 December 2024

Public Authority: Chief Constable of Devon and Cornwall Police
Address: Police Headquarters
Middlemoor
Exeter
EX2 7HQ

Decision (including any steps ordered)

1. The complainant made a five part request for information to Devon and Cornwall Police. Devon and Cornwall Police stated that part one of the request was a repeated request and stated that no information is held in regards to parts two to five of the request.
2. The Commissioner's decision is that Devon and Cornwall Police did not seek clarification in regards to parts one to five of the request and in doing so breached section 16(1) of FOIA.
3. The Commissioner requires Devon and Cornwall Police to take the following steps to ensure compliance with the legislation.
 - Seek clarification from the complainant in regards to parts one to five of his request. Then, either disclose the information or issue a refusal notice which complies with section 17 of FOIA.
4. Devon and Cornwall Police must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Freedom of Information Act 2000 and may be dealt with as a contempt of court.

Request and response

5. On 29 March 2023, the complainant wrote to Devon and Cornwall Police and requested information in the following terms:
 - “1. A senior management structure chart for Devon & Cornwall Police - FOI request
 2. A copy of the minutes or notes of the meeting on the 08/03/2023 with the head of crime.
 3. A copy of the summary email to the head of crime
 4. A copy of all the information sent to the head of crime to date regarding these very serious matters.
 5. A copy of all the inquiries and responses Devon & Cornwall Police have made to date regarding these very serious matters.
 6. This is a SAR request for all information requests I have made from the 11/07/2022 to the present day (28/10/2023)”
6. On 26 October 2023 Devon and Cornwall Police responded to the complainant's request stating that part one of the request was a repeated request and that the complainant was provided with the information on 19 April 2023. In regards to parts two to five of the complainant's request, Devon and Cornwall Police stated that no information was held.
7. On 28 October 2023 the complainant made a request for internal review stating that he particularly wanted to know at the time the management structure and the section heads who were responsible for the CID department, the coroner's office and the true identity of the Detective Chief Superintendent of Crime. The complainant also explained that he believed Devon and Cornwall Police do hold information in relation to parts two to five of his request.
8. On 11 March 2024 Devon and Cornwall Police maintained its original position at internal review, stating that it had previously provided a response to part one of the complainant's request and no information was held in regards to part two to five of the complainant's request.

Scope of the case

9. The complainant contacted the Commissioner on 12 March 2024 stating that partial information has been provided previously to part one of his

request but argued that the senior management chart that was provided is outdated and explained that he is particularly wanting to know the management structure and the section heads as well as who was responsible for the CID department, the coroner's office and the identity of the Detective Chief Superintendent of Crime.

10. In regards to part two to five of the complainant's request he has argued that he believed information is held within scope of his request.
11. The Commissioner therefore considers the scope of the complaint to consider whether Devon and Cornwall Police has correctly handled parts one to five of the complainant's request.
12. The Commissioner notes and has informed the complainant that part six of his request is a subject access request and he has not considered this as part of this notice.

Reasons for decision

Section 1 – general right of access

Section 16 – Advice and assistance

13. Section 1(1) of FOIA provides that any person making a request for information to a public authority 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.
14. Section 16(1) of FOIA provides that it shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.
15. Section 16(2) provides that any public authority which, in relation to the provision of advice and assistance in any case, conforms with the code of practice under section 45 is to be taken to comply with the duty imposed by subsection (1) in relation to that case.
16. With regard to clarifying the request, the section 45 code of practice explains that there may be instances when a public authority needs to contact an applicant to seek clarification regarding the information they are seeking.

17. The Commissioner's published guidance on section 16¹ goes on to confirm that when a request, read objectively, is ambiguous and requires clarification as to the information sought, the public authority should contact the applicant for more details to help it identify and locate the information they want.
18. In regards to part one of the complainant's request, he asked for "a senior management structure chart for Devon and Cornwall Police". Devon and Cornwall Police responded to the complainant stating that it had previously provided this information in a response to a previous request.
19. In its submission to the Commissioner, Devon and Cornwall Police explained that the complainant was initially provided with a link to the webpage in response to the previous request for the same information. It also explained that at internal review the decision was overturned and the complainant was provided with a redacted copy of the structure chart.
20. In his internal review dated 28 October 2023 the complainant confirmed to Devon and Cornwall Police that the chart previously provided did not show the information that he was particularly interested in and explained what information he wished to be provided with.
21. The complainant also explained to the Commissioner that the structure chart provided by Devon and Cornwall Police is outdated and he therefore does not believe he has been provided with the correct information.
22. As the complainant explained to Devon and Cornwall Police in his internal review that it did not provide the information he was seeking access to, as well as explaining what type of information he wanted to be provided with, the public authority should have written to the complainant to clarify what information the complainant is requesting.
23. In regards to part two of the complainant's request, Devon and Cornwall Police explained to the Commissioner that the attendee confirmed that the meeting in question was held via Microsoft Teams and was a discussion between the Superintendent and the Chief Superintendent.
24. The Commissioner notes the complainant's request as part two refers to a meeting held on March 2023 with the 'head of crime'. The Commissioner is of the opinion that it is not clear who the complainant is

¹ [Section 16 – Advice and Assistance | ICO](#)

referring to as the 'head of crime'. Devon and Cornwall Police therefore should have clarified what information the complainant is requesting.

25. In regards to part three to five of the complainant's request, Devon and Cornwall Police has told the Commissioner that it interpreted the request specifically for information with regards to criminal investigations.
26. The Commissioner is mindful that the complainant may have been asking not only for information relating to a criminal investigation and therefore, part three and five of the complainant's request did not have a single objective reading.
27. The Commissioner concludes that Devon and Cornwall Police did not meet its duty to provide advice and assistance to the requester in this case, by way of clarifying the information that they were seeking.
28. Therefore, the Commissioner finds that Devon and Cornwall Police breached section 16(1) of FOIA. As such, it should now follow the steps ordered in paragraph 3 of this decision notice.

Right of appeal

29. 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

30. 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.
31. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Robyn Seery
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