

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 February 2016

Public Authority: Chief Constable of South Wales Police
Address: Police Headquarters
Cowbridge Road
Bridgend
CF31 3SU

Decision (including any steps ordered)

1. The complainant requested details of authorisation to input false information onto the Police National Computer ('PNC'). South Wales Police stated that it did not hold the information requested. The Commissioner's decision is that South Wales Police has complied with its obligations under section 1(1) of the FOIA. The Commissioner does not require any steps to be taken.

Request and response

2. On 18 May 2015 the complainant wrote to South Wales Police and requested information in the following terms:

"I would like to know what permissions you have to put totally false information on the PNC about somebody when you know this can affect a persons job, promotion prospects etc".
3. South Wales Police responded on 15 June 2015 and stated that it did not hold the information requested.
4. On 15 June 2015 the complainant requested an internal review of South Wales Police's handling of the request.
5. South Wales Police provided the outcome of its internal review on 19 April 2015 and upheld its position that the information requested was not held.

Scope of the case

6. The complainant contacted the Commissioner on 20 July 2015 expressing dissatisfaction with South Wales Police's response to his request. The Commissioner has therefore considered whether South Wales Police's response is compliant with section 1(1) of the FOIA.

Reasons for decision

Section 1 – general right of access

7. 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.
8. 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.
9. In its initial response to the request, South Wales Police confirmed that personal information is held on the PNC in full compliance with the principles of the Data Protection Act 1998. As such, everyone responsible for using data on the PNC must comply with the eight data protection principles and ensure that the information is:
 - Fairly and lawfully processed.
 - Processed for limited purposes and not in any manner incompatible with those purposes.
 - Adequate, relevant and not excessive.
 - Accurate and where necessary, up to date.
 - Not kept for longer than is necessary.
 - Processed in line with the data subject's rights.
 - Secure.
 - Not transferred to countries outside the European Economic Area without adequate protection.

10. In its representations to the Commissioner, South Wales Police stated that no searches were undertaken to identify whether any information relevant to the request was held. However, the request was discussed with the PNC Team Leader and the Data Protection Disclosure Officer to assist in formulating an accurate response to the request.
11. South Wales Police is a public authority in place to enforce the law. As such it contends that it would not have a policy or procedure in place which permits any of its officers or staff to input totally false information onto the PNC, as this would be unlawful. South Wales Police also confirmed that it adheres to the PNC Code of Practice. This code of practice is to ensure that the PNC complies with data protection legislation, and that its data meets the highest standards in terms of timeliness and accuracy. South Wales Police reiterated that it processes all personal data in accordance with the eight data protection principles.
12. In his request for an internal review, the complainant alleged that he had provided clear evidence that "what you have put on the PNC is false yet you still refuse to address the issue".
13. In weighing up the balance of probabilities that South Wales Police holds any relevant information the Commissioner has had regard to the complainant's assertion that the requested information exists because of his previous experience. It is clear to the Commissioner that the complainant is dissatisfied with his previous dealings with South Wales Police and information recorded on the PNC about himself.
14. However, in the circumstances, the Commissioner does not consider that there is any evidence that would justify refusing to accept South Wales Police's position that it does not hold any information relevant to this request. He does not find it difficult to accept that South Wales does not have a written policy or other recorded information which permits its officers and staff to input totally false information about an individual onto the PNC. The Commissioner is therefore satisfied that on the balance of probabilities, the information requested is not held by South Wales Police. Accordingly, he does not consider that there is any evidence of a breach of section 1 of the FOIA.

Right of appeal

15. 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

16. 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.
17. 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