

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 May 2019

Public Authority: Chief Constable of Cambridgeshire Constabulary
Address: Constabulary Headquarters
Hinchingsbrooke Park
Huntingdon
PE29 6NP

Decision (including any steps ordered)

1. The complainant has requested information about the ownership of four private properties from Cambridgeshire Constabulary ("CC"). CC advised the complainant that it does not hold this information.
2. The Commissioner's decision is that, on the civil standard of the balance of probabilities, CC does not hold the information requested. No steps are required.

Request and response

3. On 5 October 2018 the complainant wrote to CC (and several other public authorities) and requested information in the following terms:

"I trust that one or more of your public bodies hold records of the legal owners holding full or limited title guarantee of the following four properties. If so would you kindly provide me with that information or direct me to any other Data Controllers or Data Processors who may hold that information."

I have tried H.M Land Registry and the Valuation Office and other Data Controllers and Data Processors with no success.

1) [address redacted]

2) [address redacted]

3) [address redacted]

4) [address redacted]".

4. CC responded on 31 October 2018 and advised that it does not hold the requested information.
5. Following an internal review, CC wrote to the complainant on 4 January 2019. It revised its position, saying that it would neither confirm nor deny holding any information, citing section 40(5)(personal information) of the FOIA.
6. During the Commissioner's investigation CC revised its position again, advising the complainant that it does not hold the requested information.

Scope of the case

7. The complainant contacted the Commissioner on 9 January 2019 to complain about the way his request for information had been handled. He advised that: *"All this recoded information is held by the Constabulary in their Command & Control Incident Files"* and that: *"This is the tip of a very large iceberg of inappropriate Police Information Notices served on me by the Constabulary since 1996"*.
8. As mentioned above, during the Commissioner's investigation CC wrote to the complainant to revise and clarify its position, explaining that it does not hold the requested information. It advised him as follows:

"It is not the responsibility of Cambridgeshire Constabulary to hold land registry or valuation data. We therefore do not hold records regarding the legal owners of the properties in your request. Therefore, in this regard our no information held response is correct."

However, to try and assist you further I can offer you the following advice that if any other information was held regarding these named properties, for whatever reason, it would be held for a policing purpose and as such this would attract the S40 personal information exemption as previously advised."

I appreciate this response may be frustrating for you and do hope you are able to find alternative means of obtaining said information".

9. Having received this revised response, the complainant wrote to CC, copying in the Commissioner, and said:

"The owners of these four properties have made complaints to Cambridgeshire Constabulary about me. It follows that the Constabulary and other public bodies hold records of the legal owners of these four properties".

10. The Commissioner wrote to the complainant advising him that his comments were not relevant to the wording of the request which she is considering here, ie *"legal owners holding full or limited title guarantee of the following four properties..."*. She explained that whether or not CC holds any further information about the properties would be a different request and that she would ask CC to write to him and clarify whether or not he was making a new request.
11. The Commissioner also asked the complainant, if he still did not accept that CC does not hold the requested information, to provide his reasons for believing that it does for her to consider in this investigation.
12. In responding to her the complainant advised:

"Cambridgeshire Constabulary have been actively involved in a long running extended family dispute in respect of the legal ownership of these four properties.

The Constabulary have breached Article 6 (e) of the GDPR by using Body Worn Cameras to video my wife and me as they served us with inappropriate Police Information Notices on instructions from family members. Those same family members have handed the Pre Registration Deeds of one or more of the four properties to Cambridgeshire Constabulary.

D.I [name removed] and [name removed] of the Constabulary also attended the Disputed Will Hearing held at the Chancery Division of the High Court and hold data about the legal ownership of these four properties.

[Name removed]'s Data Protection Department must hold the data that I requested on 5 October 2018".

13. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the FOIA. The FOIA is to do with transparency of information held by public authorities. It gives an individual the right to access recorded information (other than their own personal data) held by public authorities. The FOIA does not require public authorities to generate information or to answer questions, provide explanations or give opinions, unless this is recorded information that they already hold.

14. The Commissioner will consider whether or not, on the civil standard of the balance of probabilities, CC holds the information requested.

Reasons for decision

Section 1 – general right of access

15. Section 1 of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds that information and, if so, to have that information communicated to them.
16. In cases where there is some dispute about the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner – following the lead of a number of First-tier Tribunal decisions – applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is likely, or unlikely, that the public authority holds information relevant to the complainant's request.
17. The Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the public authority to check whether the information is held and any other reasons offered by the public authority to explain why the information is not held. She 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 is held, she is only required to make a judgement on whether the information is held on the civil standard of proof of the balance of probabilities.
18. In this case, the complainant suspects that CC holds information from which it could answer the request on the basis of previous dealings it has had with himself and his family. CC's position is that it does not.
19. The Commissioner initially notes that she is not considering whether or not CC holds any information about the complainant, his dealings with the police or his family. As per the wording of the request, she is only considering, on the balance of probabilities, whether it holds records of the legal owners, holding full or limited title guarantee, of the four properties named.
20. When, as in this case, the Commissioner receives a complaint that a public authority has not disclosed the information that a complainant believes it holds, it is seldom possible to prove with absolute certainty that it holds no relevant information. However, as set out in the paragraphs, above, the Commissioner is required to make a finding on the balance of probabilities.

21. The background to this request is an allegation of fraud by the complainant, with a connection to the named properties. He complained to CC about this several years ago and CC determined that there was insufficient evidence to investigate his complaint as a crime. Consequently, no investigation into the alleged fraud was undertaken. As such, CC would have had no reason to gather any evidence of ownership of any of the properties listed. Whilst it may indeed hold other information about the properties, or their occupiers, this is not the same as having specific details of the legal entitlement of ownership of the properties which is what this request concerns. The only information that CC may hold will be connected to its policing purposes such as recorded incidents, crimes and intelligence. This is not the information that has been requested.
22. CC has confirmed to the Commissioner that it does not hold land registry or valuation data, suggesting that his request would be best answered by one of the other recipients it was sent to.
23. CC also provided the Commissioner with details of an earlier complaint against one of its officers raised by this complainant in 2015. This earlier complaint relates to the same subject matter and its investigation corroborates CC's position that no information relevant to this request is held by the force.
24. Based on the subject matter of the request, ie legal entitlement documents for privately owned properties, the role of CC as a police force and an investigation it has already undertaken, the Commissioner accepts that, on the balance of probabilities, CC does not hold the requested information.

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@justice.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

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