

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 February 2025

Public Authority: Commissioner of Police of the Metropolis
Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant has requested the outcome of an incident from the Metropolitan Police Service (the "MPS"). The MPS refused to provide the requested information, citing sections 30(1) (Investigations and proceedings) and 40(2) (Personal information) of FOIA.
2. During the Commissioner's investigation, the MPS responded to the request. The complainant remained dissatisfied as he considered the response to be inadequate.
3. The Commissioner's decision is that the MPS has complied with the request. No steps are required.

Background

4. A BBC article about the incident is available online¹.

¹ <https://www.bbc.co.uk/news/uk-england-london-60736583>

Request and response

5. On 16 April 2024, the complainant wrote to the MPS and requested the following information:

"I would like to apply for a FOI request concerning the outcome of the arrests made by the Metropolitan Police of four squatters that gained access to 5 Belgrave Square March 14th, 2022.

Please could you confirm whether those arrested were de-arrested/ discharged with no further action or convicted of burglary and provide a web address link and/ or documentation that outlines the offences and results of the arrests and the reason(s) for de-arrest/ discharge.

Please bear in mind, that 75 officers attended the burglary with all the world's media also in attendance. All those present are, in effect, witnesses to the crime".

6. On 23 April 2024, the MPS responded. It considered that it had responded to the request in full, advising the complainant that:

"Eight people were arrested in Belgrave Square on 14 March.

Four arrested for squatting residential property and the four arrested nearby for trespassing on the premises of a foreign mission, have been released under investigation. Enquiries are ongoing".

7. Further correspondence followed whereby the complainant requested to know why an investigation remained ongoing two years after the crimes were committed and arrests made with clear evidence witnessed by in excess of 75 police officers and recorded by the world's media.
8. On 25 April 2024, the MPS advised that: "An investigation was launched and for evidential reasons no charges were brought. Four arrested were released under investigation, enquiries are ongoing."
9. On the same day, the complainant responded requesting the meaning of: "...for evidential reasons no charges were brought", as he considered that overwhelming evidence had been present.
10. On 2 May 2024, the MPS advised that it was unable to provide details as to why, in this specific case, no charges were brought. It advised that, if he wished to have this matter considered under FOIA, it would be logged and considered accordingly. The complainant responded advising that he wished to do so.

11. On 28 May 2024, the MPS responded. It refused to provide the requested information, citing sections 30 and 40(2) of FOIA.
12. The complainant requested an internal review on 28 May 2024. He said:

"The public interest favouring release must be balanced against any associated risk and/or prejudice that would be caused by disclosure. Having carefully considered this, I have found that that [sic] the public release of the information held would hinder our investigatory functions."

May I ask, why is there an on-going investigation over 2 years later of an incident that from clear evidence alone, those committing the act of burglary are guilty of said offence?"
13. The MPS provided an internal review on 3 August 2024. It maintained its position regarding sections 30 and 40 of FOIA.
14. On 7 August 2024, the complainant said:

"Re: Four squatters that gained access to 5 Belgrave Square March 14th, 2022.

 1. Why there is any investigation whatsoever for the act of squatting/ burglary when it was witnessed by 75 police officers, and;
 2. If there has to be any investigation, why it is still ongoing after 2 years?"
15. On 10 September 2024, the MPS responded explaining: "no owner came forward and the investigation ceased". It also clarified that: "there is no open investigation".

Scope of the case

16. The complainant contacted the Commissioner on 31 October 2024 to complain about the way his request for information had been handled. His grounds of complaint were as follows:

"I do not wish any details pertaining to those involved, only the outcome of the arrests. My request was refused by the MPS based on that they stated on several occasions that an investigation was ongoing and as a result, they could not disclose any information. Having then challenged them several times, they then changed their response to state there was no investigation ongoing but still refused to provide my FOI request on the grounds that this is an

abandoned investigation and therefore they do not have to disclose".

17. Having been advised by the Commissioner that the focus of his investigation would be to determine whether the MPS had handled his request in accordance with FOIA, on 4 November 2024 the complainant responded saying:

"I see that the focus of the investigation is to see whether or not the public authority handled my case according to legislation.

Whether they have or not, is not really my main focus but that I would like to received [sic] information in regards to the outcome of the arrests of the squatters".

18. As the complainant is not concerned with any procedural matters, the Commissioner has not considered this possibility any further.
19. In an effort to informally resolve the case, the Commissioner liaised with the MPS. He suggested that it may be able to provide some further information as, in his initial view, he did not consider section 40 to apply. Furthermore, as it was a high profile case, he considered that the public interest in favour of disclosure may outweigh any public interest in maintaining the application of section 30.
20. As a consequence, the MPS wrote to the complainant on 24 January 2025 and advised him as follows:

"...I have assessed the complaint afresh and on further investigation and in the hope of informally resolving this matter, my own enquiries have led me to reconsider the approach made at the initial and internal review stages.

I am pleased to offer you full disclosure: -

'The MPS were unable to engage and obtain a statement from the owner(s) of the premises. In the absence of a 'loser statement' we were unable to identify any offences except for the presence of suspects on premises'."

21. The complainant responded to this disclosure and said:

"... the crime of trespass and burglary was witnessed by 75 police officers in attendance not to mention the worlds media. Those caught in the conduct of those crimes were arrested. Criminal law does not require any 'loser statement' from the owner. My request was to understand why those arrested were de-arrested and why the case did not even reach the CPS.

The identification of offences was witnessed by all those stated above so I do not understand your statement in italics in your letter – it remains non-sensical and irrelevant whether or not the owner makes such a 'loser statement'".

22. In response, on 25 January 2025, the MPS advised:

"The ICO's investigation focuses on your request which was:-

'I am writing to make a complaint in regards to my recent enquiry to the Met Police concerning their refusal to provide the reason why the squatters who were arrested (ref detail attached) were evidently not charged for the offence(s).'

In my response dated 24th January we offered a full disclosure to your question, why we did not proceed with a criminal investigation.

'The MPS were unable to engage and obtain a statement from the owner(s) of the premises. In the absence of a 'loser statement' we were unable to identify any offences except for the presence of suspects on premises'.

We have responded to your question which was the focus of the ICO's investigation".

23. The MPS also invited the complainant to submit a further information request if he wished to.

24. The Commissioner sought the complainant's views and he responded saying:

"...the answer the MPS provided was hugely unsatisfactory...

The MPS were actually in attendance on scene whilst the crimes of burglary and trespass were taking place – all 75 MPS officers, in addition to the world's media. They were arrested on site but my FOI relates to the outcome of the arrests as there was no case submitted to the CPS and those arrested were de-arrested.

I am trying to understand the reason why?

I understand the ICO have a certain remit to fulfil, that being to ensure that FOIs are responded to in line with disclosure rules. The only issue here is that when a FOI is submitted and responded to but the response is unsatisfactory, does the ICO then have a remit to assist the FOI in regards to clarity and accuracy in detail as the

response from the MPS merely ticks their box to respond but does not tick my box in actually answering the thrust of the FOI”.

25. The MPS has also helpfully agreed that the Commissioner can include the following:

- The offences under consideration were burglary (with an alternative of simple criminal damage) and residential squatting.
- In order for a prosecution for either of the offences to succeed there must be a victim. The victim must be the person who owns or substantially controls the building in question. There is no alternative route to prosecution.

26. 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 FOIA. FOIA is concerned with the 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. 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.

Reasons for decision

Section 1 – General right of access to information held

27. Section 1(1) of FOIA states that:

“Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
- (b) if that is the case, to have that information communicated to him”.

28. A public authority must therefore establish what information it holds that falls within the scope of the request before going on to consider whether

it may be disclosed². Clearly, this process will begin with it identifying what information is actually being requested.

29. Having considered the original wording of the request, the complainant has asked for the outcome of the arrests. His complaint to the Commissioner again states that he is seeking: "information in regards to the outcome of the arrests".
30. The Commissioner's guidance on interpreting and clarifying requests³ states that it is important that a public authority reads a request for information correctly and objectively. It should respond based on the actual wording of the request itself.
31. The Commissioner considers the intended meaning of the request to be plain: the complainant has asked for information about why no one was prosecuted following their arrest at the scene.
32. Based on the details above, the Commissioner considers that an objective reading of the request and follow up correspondence from the complainant is that it is focussed on obtaining information directly related to the outcome of the arrests. The MPS has advised regarding that outcome, ie that no victim was identified so no case was pursued. It is clear from his correspondence that the complainant disagrees with the reasons for the MPS's decision not to prosecute in this case, however, that itself is not a matter for the Commissioner. He is only concerned with whether or not the MPS has correctly responded to the complainant's request for information.
33. In view of this, the Commissioner finds no failure to comply with section 1 of FOIA.
34. If the complainant wishes to know any further details, he is entitled to make another, more specific information request. Guidance on how to make effective requests for information can be found on the Commissioner's website⁴

² unless doing so would exceed the appropriate costs limit at section 12 of FOIA

³ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/interpreting-and-clarifying-requests/>

⁴ <https://ico.org.uk/for-the-public/official-information/preparing-and-submitting-your-information-request/>

Right of appeal

35. 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

36. 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.
37. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Carolyn Howes
Senior Case Officer
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