



Our Ref: IR0517(2).2016-17

Your Ref:

Date: 12 January 2018

Civil Disclosure

Joint Corporate Legal Services

Neil Wilby

request-355934-76bbe86e@whatdotheyknow.com

Dear Mr Wilby,

FREEDOM OF INFORMATION REQUEST REFERENCE NO: IR0517(2).2016-17

I write in connection with your request for a second internal review which was received on 07 December 2017. Please accept our apologies for the delay in providing you with a response. I note you originally sought access to the following information:

Between 1st July, 2016 and 1st September 2016

- (i) How many FOIA requests were due for finalisation (within the statutory 20 working day period) ?*
- (ii) How many were finalised in a compliant manner?*
- (iii) How many were non-compliant?*
- (iv) How many FOIA request internal reviews were due for finalisation (within the 20 working day period) ?*
- (v) How many were finalised in a compliant manner?*
- (vi) How many were non-compliant? That is to say still not finalised at 1st September, 2016.*

Please provide in all cases:

- (vii) The NYP FOI file reference for the request/internal review falling due for finalisation in the period between 1st July, 2016 and 1st September 2016*
- (viii) The date the request, internal review was submitted to NYP*
- (ix) The date the request, internal review was finalised by NYP*

North Yorkshire Police (NYP) originally issued a Section 14 – Vexatious response on 29 September 2016 which you requested an internal review of on 29 September 2016. NYP consequently upheld the Section 14 decision on 20 October 2016. This decision was then referred to the Information Commissioners Office (ICO) who contacted NYP on 08 November 2017. NYP amended their position and attempted disclosure of information to you on 05 December 2017 which, due to the *WhatDoTheyKnow* log being closed, was not received until 07 December 2017. You requested a second internal review on 07 December 2017 which consisted of the following;

- 1. Disclosure of the requested information has taken 461 (FOUR HUNDRED AND SIXTY ONE) days. It is believed to be a record on the What Do They Know website.*

Jane Wintermeyer BSc (Hons) Force Solicitor & Head of Legal Services
Police Headquarters | Alverton Court | Crosby Road | Northallerton | North Yorkshire | DL6 1BF
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Non-emergency
Number



2. That delay in disclosure, taken in the context of other non-compliant finalisations of information requests I have made to NYP, may well amount to 'seriously improper conduct', as defined in section 77 of the Act.

For example:

(i) Eight of my first nine requests to NYP were all finalised as non-compliant (URN's 489.2015.16; 15.2015.16; 268.2015.16; 1117.2015.16; 1224.2015.16; 1225.2015.16; 198.2015.16; 305.2015.16).

(ii) Most of those requests at sub-para (i) above could safely be characterised as non-complex. Six of them were finalised months overdue, not days or weeks. 489.2015.16 took 377 (THREE HUNDRED AND SEVENTY SEVEN) days to finalise.

(iii) A subsequent request was not finalised at all, and required a notice to be served on NYP by the ICO to force disclosure (URN 447.2016.17).

(iv) A further request (URN 499.2016.17) was finalised as vexatious. NYP later retreated from that position and disclosed the information in full, again following intervention by the ICO.

(v) Another request (URN 441.2016.17) is presently before the First Tier Tribunal ("the FTT") wherein the finalisation of the request, the internal review, submissions to the ICO's investigation and in legal pleadings there has been, throughout, a persistent and deliberate attempt to mislead me, the ICO and the Tribunal (those words are carefully chosen).

(vi) In yet another request, it took 450 days to provide a finalisation: 681.2017.18

(vii) Finally, NYP conspired with Durham Constabulary to produce one of the most grotesquely smearing finalisations of an information request in the 17 year history of the Act. The ICO, unsurprisingly, overturned the section 14 exemption applied to that request.

<https://www.whatdotheyknow.com/request/d...>

3. This list at para 1 (i) to (vii) is not to be taken as exhaustive - and all other rights in respect of civil or criminal action are, accordingly, reserved.

4. In the fifth paragraph on page 2 of the finalisation letter you state:

"Decision

At the time of the original decision, particular factors engaged a Section 14 response, however, at this time, some of these factors are no longer present. I have therefore decided to disclose the located information to you".

The following points are made in response:

(a) If the section 14 exemption is not unconditionally withdrawn, and a revised finalisation posted on this website to that effect, then the most proportionate option available to the various parties would be to ask the ICO to proceed with the present section 14 investigation, and issue a Decision Notice. In the unlikely event that the reliance on the section 14 exemption is upheld by the ICO, then it would be appealed to the FTT.

(b) You are, in the meantime, invited to disclose (i) The "particular factors considered when the original section 14 decision was made" and (ii) "some of those factors no longer present".

(c) I herewith consent to personal data being disclosed on this website (What Do They Know) if the answer(s) to para 3 (b) (i) and (ii) necessitates such data being published. All my rights, on this single occasion, are, accordingly, waived.

(d) As carefully, and forensically, set out in eleven pages of submissions to the ICO investigation (3,549 words), the vexatious conduct is strictly confined to that of NYP towards me. A matter I have complained of, many times.

(e) In any event, and setting all that aside, any independent reviewer simply taking into account the matters set out above at para 1 (i) to (vii) could not, in all truth, reach any other conclusion than NYP are the vexing party in all this.

(f) The point is also made, politely but with appropriate force, that to finalise the instant request would have taken a disclosure officer, perhaps, one to two hours. Yet NYP have been content to waste hours of my time in trying to eke out disclosure of information that should, very arguably, be part of NYP's publication policy, in any event.

5. Notwithstanding the contentious matters raised at paras 1. 2. 3. and 4. above, I am, nonetheless, grateful for the disclosure provided. It is, as one might expect, an important piece in the jigsaw of a wider, and ongoing, investigation into NYP malpractice concerning the Act.

6. As an extension of that investigation, and further to some quite startling (and very probably untrue) assertions made by Fraser Sampson, chief executive to the police commissioner, at a recent Police and Crime Panel meeting, I request that an identical data set be disclosed for the period 1st September 2016 to 31st March, 2017

That is to say:

(i) How many FOIA requests were due for finalisation (within the statutory 20 working day period)?

(ii) How many were finalised in a compliant manner?

(iii) How many were non-compliant?

(iv) How many FOIA request internal reviews were due for finalisation (within the 20 working day period) ?

(v) How many were finalised in a compliant manner?

(vi) How many were non-compliant? That is to say still not finalised at 1st September, 2016.

Please provide in all cases:

(vii) The NYP FOI file reference for the request/internal review falling due for finalisation in the period between 1st July, 2016 and 1st September 2016.

(viii) The date the request, internal review was submitted to NYP.

(ix) The date the request, internal review was finalised by NYP.

I recognise that this will have to be treated as a new request but it would be rational and proportionate to contain it within this existing What Do They Know thread.

7. Given the delay in finalising this request and, also, the wider significance of the matters raised at paras 1 to 4, you are politely urged to expedite this internal review.

Decision

According to Authorised Professional Practice guidance, 'the internal review stage is an opportunity to consider a request completely afresh. It should be an independent review of the original decision.'

I recognise at paragraph 5 of your request that you are satisfied with the data that was disclosed to you on 07 December 2017. No other part of your correspondence challenges the accuracy of the data therefore the decision to disclose on 07 December 2017 shall not be reviewed.

I shall provide comment below to the other parts of your most recent correspondence;

1 – 3) In this instance NYP was compliant in responding to your original request within the 20 working day limit allowed under the FOIA. NYP was also complaint in responding to your first request for an internal review within 20 working days. NYP received correspondence from the ICO on 08 November 2017 requesting NYP to reconsider the way they handled the request for information and NYP were compliant in responding to this request, as asked, by 07 December 2017.

4) I recognise your explicit consent at paragraph 4(c) for NYP to disclose any of your personal information upon the *WhatDoTheyKnow* website in relation to the original S14 considerations.

Please see the attached document which identifies NYP's considerations when issuing the original S14 decision.

I can advise that at the time of the ICO review the litigation referred to in the attachment had concluded and was therefore no longer a relevant consideration. As such, the section 14 stance was withdrawn and the information that was originally requested was supplied to you on 07 December 2017, which is available on the *WhatDoTheyKnow* log.

5) Acknowledged above.

6) This request for additional information was logged under the FOIA request reference 0967.2017-18.

7) Noted.

If you are still dissatisfied with the decision you may make application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

Complaint Rights

Your attention is drawn to the attached sheet which details your right of complaint.

If you have any queries concerning this request, please contact me quoting the reference number above.

Yours sincerely

Robert Bates
Legal Officer (Civil Disclosure)
Joint Corporate Legal Services
Enc

COMPLAINT RIGHTS

Are you unhappy with how your request has been handled or do you think the decision is incorrect?

You have the right to require that North Yorkshire Police reviews their decision.

Prior to lodging a formal complaint you are welcome and encouraged to discuss the decision with the case officer that dealt with your request.

Ask to have the decision looked at again –

The quickest and easiest way to have the decision looked at again is to telephone the case officer that is nominated at the end of your decision letter.

That person will be able to discuss the decision, explain any issues and assist with any problems.

Complaint

If you are dissatisfied with the handling procedures or North Yorkshire Police's decision made under the Freedom of Information Act 2000 (the Act) regarding access to information, you can lodge a complaint with the North Yorkshire Police to have the decision reviewed. North Yorkshire Police must be notified of your intention to complain within 2 months of the date of its response to your Freedom of Information request. Complaints should be made in writing and addressed to:

Force Solicitor and Head of Legal Services
North Yorkshire Police
Alverton Court
Crosby Road
Northallerton
North Yorkshire
DL6 1BF

In all possible circumstances the North Yorkshire Police will aim to respond to your complaint as soon as practicable but within 20 working days.

The Information Commissioner

After lodging a complaint with North Yorkshire Police if you are still dissatisfied with the decision you may make application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at <https://ico.org.uk>. Alternatively, phone: 0303 123 1113 or write to:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF