



Scottish Information
Commissioner

**Decision 065/2007 Mr David Lamb and the Chief
Constable of Strathclyde Police**

*Request for information relating to the religious denomination of
officers serving with Strathclyde Police Force*

Applicant: Mr David Lamb

Authority: The Chief Constable of Strathclyde Police

Case No: 200601879

Decision Date: 3 May 2007

**Kevin Dunion
Scottish Information Commissioner**

Kinburn Castle
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Decision 065/2007 - Mr David Lamb and the Chief Constable of Strathclyde Police

Request for information relating to the religious denomination of police officers serving with Strathclyde Police Force - Information not held

Relevant Statutory Provisions and Other Sources

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) (General entitlement); 17(1) (Notice that information is not held); 21(1) (Review by a Scottish public authority).

The full text of each of these provisions is reproduced in the Appendix to this decision. The Appendix forms part of this decision.

Facts

Mr Lamb requested the total number and religious denomination of police officers serving with Strathclyde Police. The Chief Constable of Strathclyde Police (Strathclyde Police) responded to Mr Lamb stating that they held no information relating to his request. Mr Lamb was dissatisfied with the response and asked Strathclyde Police to review their decision. Strathclyde Police carried out a review and, as a result, provided Mr Lamb with some information, but reiterated that they held no further information relating to Mr Lamb's request. Mr Lamb remained dissatisfied and applied to the Scottish Information Commissioner for a decision.

Following an investigation, the Commissioner found that although Strathclyde Police had breached certain procedural requirements of FOISA in responding to Mr Lamb's request for information, the Commissioner was satisfied that Strathclyde Police held no further information relating to Mr Lamb's request and did not require Strathclyde Police to take any further action as a result of his decision.



Background

1. On 20 June 2006, Mr Lamb wrote to Strathclyde Police requesting the total number and religious denomination of police officers serving with Strathclyde Police.
2. On 24 July 2006, Strathclyde Police responded to Mr Lamb, giving him notice under section 17(1) of FOISA that they did not hold the information which he had requested.
3. On 6 August 2006, Mr Lamb wrote to Strathclyde Police requesting a review of their response.
4. On 14 September 2006, Strathclyde Police responded to Mr Lamb's request for review. In their notification, Strathclyde Police apologised for the lateness of their response. They also provided Mr Lamb with the total number of police officers serving with Strathclyde Police at the time of his request. However they upheld their initial response in relation to his request for information relating to the religious denomination of police officers.
5. On 26 November 2006 Mr Lamb wrote to my Office, stating that he was dissatisfied with the outcome of Strathclyde Police's review and applying to me for a decision in terms of section 47(1) of FOISA.
6. My Office then entered into some correspondence with Mr Lamb and, on 30 January 2007, Mr Lamb's application was validated by establishing that he had made a request for information to a Scottish public authority and had applied to me for a decision only after asking the authority to review their response to that request.
7. On the same day, Strathclyde Police were notified in writing that an application had been received from Mr Lamb and were asked to provide my Office with specified items of information required for the purposes of the investigation. Strathclyde Police responded with the information requested and the case was allocated to an investigating officer.

The Investigation

8. In their response, Strathclyde Police provided evidence to show that they held no information about the religious denomination of police officers serving with Strathclyde Police.



9. The investigating officer then wrote to both parties and requested relevant additional background information on the case.
10. The Police responded, stating that they were not aware of any issues which would provide further information on why Mr Lamb believed them to hold this type of information. They did, however, provide press releases which related to certain marches organised by a group which Mr Lamb had mentioned in his letters to me and to Strathclyde Police.
11. During my investigation, the investigating officer checked the application form used by Strathclyde Police for potential new recruits to the police force, the equality monitoring form attached to the application form and Strathclyde Police's equality and diversity policies, which set out the information which should be recorded as part of their equality and diversity monitoring.
12. The investigating officer also contacted religious organisations working with Strathclyde Police and asked whether they held any information relating to the religious denomination of police officers on behalf of Strathclyde Police.
13. The investigating officer wrote to Mr Lamb and requested whether he could provide any further information which would help direct me to where he believed Strathclyde Police held such information. He replied, suggesting that I check internet and newspaper news archives for information.
14. Finally, the investigating officer contacted the Association of Chief Police Officers in Scotland (ACPOS) and requested details of any national policies on the monitoring within police forces of the religious denomination of serving officers.

The Commissioner's Analysis and Findings

15. In coming to a decision on this matter, I have considered all of the information and the submissions that have been presented to me by both Mr Lamb and Strathclyde Police and I am satisfied that no matter of relevance has been overlooked.



16. I would like to note here that Mr Lamb worded his request in a number of different ways during the course of his request and his application to me. The context of Mr Lamb's letters and the requests for information within them made it clear that he wished to receive information relating to the religious denomination of police officers serving with Strathclyde Police. I will therefore concentrate my investigation on whether Strathclyde Police held information relating to the religious denomination of police officers at the time of his request.

The number of police officers serving in Strathclyde Police

17. Mr Lamb requested the total number of police officers serving with Strathclyde Police. In their response, Strathclyde Police stated that they did not hold this information. However, in their reply to Mr Lamb's request for review, Strathclyde Police overturned their initial response to this request and provided Mr Lamb with the total number of police officers serving with Strathclyde Police. As Strathclyde Police provided Mr Lamb with the total number of serving police officers in their response to his request for review I will exclude the matter from this discussion.

Whether the information requested by Mr Lamb was held by Strathclyde Police

18. Mr Lamb requested information relating to the religious denomination of police officers serving with Strathclyde Police.
19. In their response to him Strathclyde Police intimated that they did not hold the requested information.
20. It falls to me to determine whether Strathclyde Police were correct to issue a notice under section 17(1) of FOISA to Mr Lamb, stating that they did not hold the information which he requested.
21. In their response to Mr Lamb and in their submissions to me Strathclyde Police stated that they did not record this type of information at the time Mr Lamb made his request. They clarified that the information was not recorded in their personnel information systems at the time the request was made.
22. Strathclyde Police added that, although information of this type was not recorded at the time of Mr Lamb's request, recording and monitoring the religious denomination of serving police officers was to occur in the future as part of their new equality monitoring programme. They stipulated that the provision of such information would be voluntary.



23. As I have set out above, I have scrutinised Strathclyde Police's application forms for potential new recruits, their equal opportunities monitoring forms attached to those application forms and their equality and diversity policies. None of these documents provides any evidence to show that Strathclyde Police monitored and recorded the religious denomination of serving police officers at the time of Mr Lamb's request.
24. I have also had the opportunity to examine the information held by religious organisations working in partnership with Strathclyde Police, and the press releases provided to me by Strathclyde Police which mentioned certain organisations which Mr Lamb alluded to in his letters to me and to Strathclyde Police. I have found no evidence from these sources to suggest that Strathclyde Police held information relating to the religious denomination of its officers at the time of Mr Lamb's request.
25. Further to this and according to Mr Lamb's submissions to me I searched internet and news archives for evidence to show that Strathclyde Police held the information requested by Mr Lamb. I found no such evidence.
26. The Investigating Officer contacted ACPOS on my behalf and requested details of any relevant national policies. They responded, stating that, although ACPOS had informed police forces that it considered it to be good practice to monitor and record serving police officers religion or belief, no national policy to record or monitor the religious denomination of serving police officers existed at the time of Mr Lamb's request. It went on to say that it was aware that Strathclyde Police was working towards monitoring and recording information relating to serving police officer's religion or beliefs in the future.
27. From my investigations, I must conclude that there is no evidence to support Mr Lamb's assertion that Strathclyde Police holds information relating to the religious denomination of police officers serving with Strathclyde Police. I am satisfied that Strathclyde Police did not hold the information requested by Mr Lamb at the time of his request and so were correct to issue Mr Lamb with notice of this under section 17(1) of FOISA.

Failure to respond to a request for review within the timescales set out by FOISA

28. Section 21(1) of FOISA states that a public authority receiving a requirement for review must comply promptly; and in any event by not later than the twentieth working day after receipt by it of the requirement.



29. Mr Lamb submitted his request for review to Strathclyde Police on 6 August 2006. Strathclyde Police responded to Mr Lamb's request for review on 14 September 2006 after more than 20 working days had passed. Consequently, Strathclyde Police breached the procedural requirements of FOISA as set out in section 21(1).
30. I note, however, that Strathclyde Police acknowledged this fact both in their response to Mr Lamb and in their submissions to me, apologising for the error, and asserting that it was an isolated incident.
31. As Mr Lamb's rights were not prejudiced by Strathclyde Police's failure to respond to Mr Lamb's request for review within the 20 working days allowed by section 21(1) of FOISA, I do not require Strathclyde Police to take any action as a result of my findings.

Decision

I find that the Chief Constable of Strathclyde Police (Strathclyde Police) acted in accordance with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in issuing a notice under section 17(1) of FOISA to Mr Lamb.

However I find that Strathclyde Police failed to comply with Part 1 in that it did not comply with the timescale set out in section 21(1) of FOISA. Given that I am satisfied that no prejudice occurred to Mr Lamb as a result of the breach I do not require Strathclyde Police to take any action as a result of my decision.

Appeal

Should either party wish to appeal against this decision, there is an appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days of receipt of this decision notice.

Kevin Dunion
Scottish Information Commissioner
3 May 2007



Appendix

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002

1 General entitlement

(1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

(...)

17. Notice that information is not held

(1) Where-

(a) a Scottish public authority receives a request which would require it either-

(i) to comply with section 1(1); or

(ii) to determine any question arising by virtue of paragraph (a) or (b) of section 2(1),

if it held the information to which the request relates; but

(b) the authority does not hold that information,

it must, within the time allowed by or by virtue of section 10 for complying with the request, give the applicant notice in writing that it does not hold it.

(...)

21 Review by Scottish public authority

(1) Subject to subsection (2), a Scottish public authority receiving a requirement for review must (unless that requirement is withdrawn or is as mentioned in subsection (8)) comply promptly; and in any event by not later than the twentieth working day after receipt by it of the requirement.

(...)