



IN THE FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(INFORMATION RIGHTS)

Appeal No: EA/2013/0279

ON APPEAL FROM:

The Information Commissioner's Decision Notice No: FS50511608

Dated: 18 December 2013

Appellant: Adrian Neighbour

Respondent: The Information Commissioner

2nd Respondent: The Chief Constable of Thames Valley Police

Heard on the papers: 24 March 2014

Before

Chris Hughes

Judge

and

Suzanne Cosgrave and Mike Hake

Tribunal Members

Date of Decision: 17 April 2014

Subject matter:

Freedom of Information Act 2000

DECISION OF THE FIRST-TIER TRIBUNAL

The Tribunal upholds the decision notice dated 18 December 2013 and dismisses the appeal.

Dated this 17th day of April 2014

Judge Hughes

[Signed on original]

REASONS FOR DECISION

Introduction

1. On 16 March 2013 the Appellant in these proceedings, Mr Neighbour, wrote to the Thames Valley Police force (“TVP”) and asked for:-
 1. *Copies of current policies and/or risk assessment criteria used in respect of determining the establishment and removal of speed detection on devices at a given location.*
 2. *A list of all performance measures and targets used in the operation of speed detection devices*
2. On 28 March Thames Valley Police responded and in dealing with the first request explained how it set about the task, it stated that “*a full assessment is made*” and provided a link to an ACPO document. In answer to the second request it stated:-
 - 2 *There are no other performance measures or targets used in the operation of these devices.*
3. Mr Neighbour replied on 29 March pointing out with respect to the first request that he had asked for copies of criteria used in any risk assessment and pointing out that the ACPO guidance was a technical manual which did not provide the information he had requested. With respect to the second request he set out his understanding that apart from the “full assessment” the implication of the response was that “*no other performance measures or targets are used in respect of speed detection devices*”. He went onto state that since, in response to a previous inquiry the TVP had provided him with collision data at sites where the devices operated as well as the number of fixed penalty notices issued at each location this data “*would constitute performance measures*”.
4. On 25 April the TVP carried out a review and confirmed that with respect to the first request no information was held and with respect to the second request the TVP also did not hold information but made reference to information published on their website.

The complaint to the Information Commissioner

5. Mr Neighbour complained to the First Respondent, “the Commissioner” on 11 August 2013. The Commissioner investigated and he considered in his Decision Notice (DN11- 17) Mr Neighbour’s evidence that information was held, the TVP’s actions to check whether information was held and its explanations why it was not held. He then came to a decision based on the balance of probabilities and concluded that the information was not held.

The appeal to the Tribunal

6. Mr Neighbour was dissatisfied and appealed to the Tribunal. The essence of his argument, which he had advanced to the Police and Crime Commissioner for TVP was it was not possible to manage the operational teams or individuals responsible for the speed devices without any performance measures. The police operate in a hierarchical fashion and *“the notion that personnel within the Scheme are not working towards, or being managed against, any agreed strategic objectives or personal performance targets to be beyond the limits of belief or credibility.”*
7. He suggested that the personnel who operate the devices would be subject to performance measures and targets and the aggregation of these local objectives and targets constitute the measurement and management of the Scheme.
8. He argued that, therefore, on the balance of probability the information was held.

The question for the Tribunal

9. The Tribunal reminds itself that when the requests submitted are clear and unambiguous they must be read as they are written and the simple question for the Tribunal is the issue of whether as a matter of fact TVP hold the policies and risk assessment criteria and performance measures requested.

Evidence

10. Mr Neighbour has conducted correspondence with the Police and Crime Commissioner for TVP alongside this FOIA request. On 2 May 2013 he wrote a 4

page letter commenting on the results of this FOIA request and described the outcome as “*incredible*”. He set out further questions and a five point programme for changing the administration of the scheme. The PCC replied on 25 June and on 1 July 2013 Mr Neighbour replied accusing him of wilful blindness, complicity and complacency.

11. In response to the Commissioner’s inquiries the TVP confirmed that it had contacted the relevant business area lead who confirmed that there was no information on point 2 of the request.

Analysis

12. Although there are many criticisms of TVP in Mr Neighbour’s correspondence the issue before this Tribunal is not whether TVP has the optimal management information system for deploying cameras to detect and deter speeding vehicles or what such an optimal structure would look like. Mr Neighbour has very strong personal beliefs about this and, it appears, deeply ingrained suspicions of the police on this matter. However the issue is whether the very specific information Mr Neighbour has requested is actually held by TVP. As Mr Neighbour has pointed out, the police is a hierarchical structure, in accordance with that the request as routed to the business lead for the area – the person who would be responsible for overseeing it confirmed that such material did not exist. TVP explained that:-

“..it is necessary to point out that TVP have never had performance measures and targets for speed detection devices.

It is our view that Mr Neighbour’s FOI request is focused on his belief that we have performance targets on a number of individuals we can catch by these devices. Speed cameras are in place as a deterrent and we are not in the business of targeting speeding motorists in order to meet any performance regime

13. Mr Neighbour has produced no evidence, merely his suspicions and his expectation that such information should exist. TVP have explained how they operate the Scheme and why they do not have such targets. The evidence is that no information is held. There are no grounds for concluding that the Commissioner’s decision was in error.
14. The Tribunal accordingly upholds the Commissioner’s decision notice.

15. Our decision is unanimous

Judge Hughes

[Signed on original]

Date: 17 April 2014