

FOIA s.30(1) – Qualified exemption: Investigations and proceedings conducted by public authorities

Patrick Toms v IC

EA/2005/0027

19th June 2006

Cases:

Facts

The Appellant wrote to the Royal Mail's Glasgow Mail Centre to request information regarding the location of street storage boxes that were broken into in 2004. The Royal Mail responded by refusing the request on the grounds that the information was exempt under s.30 FOIA; the public interest in maintaining the exemption outweighing the public interest in disclosure because the information could be used to facilitate similar crimes. The Royal Mail later came to the conclusion that it was within the public interest to release information regarding the number of attacks on street boxes, but that the details of the boxes' locations should not be disclosed for the reason stated above.

The IC upheld the Royal Mail's decision for the following reasons:

- (a) Disclosure would facilitate attacks on certain boxes because criminals targeted those that had previously been broken into;
- (b) There would be a knock on effect from (a) in respect of the prioritisation of replacement of certain boxes, which would take money away from other protective measures;
- (b) Some of the information was being used as evidence in current criminal proceedings; and
- (d) The information was being used to identify patterns of crime.

Findings

The Tribunal noted that if information is subject to the s.30(1) exemption it will remain so even if the particular purpose or purposes for which the information was retained ceases to be justified or required e.g. the investigation had resulted in a decision not to prosecute or the prosecution had been completed.

When the Tribunal went on to consider the public interest balance it identified the following factors to be taken into account in favour of disclosure :

- (a) there was a legitimate public interest in the security of mail and the quality of the Royal Mail's risk assessment;

- (b) the public also had an interest in knowing what preventative measures were taken to prevent losses and whether they were being implemented quickly enough;
- (c) if the public did know which boxes had been broken into they would be able to identify the less secure ones and to press for their replacement;

In balancing these interests against those for maintaining the exemption, the Tribunal did not consider that a different view to that taken by the Commissioner was justified. They noted that although there may be differing views as to the particular emphasis which might be placed on the extent to which costs otherwise borne by the public enter into the equation, the Tribunal was firmly in agreement with the Commissioner's overall approach in supporting the decision of the Royal Mail not to disclose the information. The Tribunal also agreed with the IC that the cost to the public purse in terms of policing and court proceedings would increase, or at least would be likely to increase, if the location of street storage boxes were disclosed.

The Tribunal was satisfied that the exemption set out in s.30(1) was properly applied, having regard to the balance of interests. They expressed that the Royal Mail is charged with ensuring the security of its boxes and attacks on the boxes will continue to represent a real risk; consequently, the revelation of the whereabouts of sensitive post boxes is likely to entail even greater risk.

Conclusion

The Tribunal upheld the decision notice and dismissed the appeal.