

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 October 2013

Public Authority: Chief Constable of Sussex Police
Address: Sussex Police Headquarters
Malling House
Church Lane
Lewes
East Sussex
BN7 2DZ

Decision (including any steps ordered)

1. The complainant submitted a request to Sussex Police for information relating to its primary custody policy. By the date of this notice Sussex Police had yet to provide a substantive response to this request. The Information Commissioner's decision is that Sussex Police breached section 10 of the FOIA in that it failed to provide a valid response to the request within 20 working days of receipt.
2. The Commissioner requires Sussex Police to take the following steps to ensure compliance with the legislation:
 - issue a response under the FOIA.
3. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

4. On 13 February 2013 the complainant wrote to Sussex Police and requested information in the following terms:

"Thank you for your letter of 5 February 2013 and the information contained therein.

I should be grateful if you would provide me with copies of the following documents referred to in the primary custody policy:

- a) Sussex Police Single Equality Scheme;*
- b) Advice to Custody Staff on when to Call for Healthcare Assessments (referred to under the heading Medical Needs at page 5 of the Primary Custody Policy);*
- c) The Equality and Diversity Policy 193/2010*
- d) Sussex Police's Confidence and Equality Strategy.*

In addition, I note you state that the agreement Sussex Police have signed with your local healthcare partners and authorities regarding the care of those detained under section 135 and section 136 of the mental health act is 'not owned by Sussex Police and therefore cannot be disclosed'. I should be grateful if you would confirm who does own this agreement so I can redirect my request to them."

- 5. Sussex Police acknowledged receipt of the request on 22 February 2013.
- 6. In the absence of a response, the complainant contacted Sussex Police several times to remind it of the need to provide a response. Whilst he received an assurance from Sussex Police on 10 April 2013 that he would hear from it "*in due course*", no response was provided.

Scope of the case

- 7. The complainant contacted the Commissioner on 28 May 2013 to complain about the way his request for information had been handled. He specifically asked the Commissioner to consider the fact that no substantive response had been provided.
- 8. The Commissioner wrote to Sussex Police on 10 June 2013 and 31 July 2013 asking it to provide a response, which it failed to do.
- 9. The Commissioner contacted the complainant on 1 October 2013, prior to drafting this notice. He confirmed he had still not received a substantive response.

Reasons for decision

10. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the information requested. The Commissioner considers that the request in this case fulfilled these criteria, and therefore constituted a valid request under the FOIA for recorded information.
11. Section 10(1) of the FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.

Conclusion

12. The Commissioner's decision is that Sussex Police did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the requests within the statutory timeframe of 20 working days. At paragraph 2 above Sussex Police is now required to respond to the request of 13 February 2013 in accordance with the FOIA.

Other matters

13. As well as finding above that Sussex Police is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. He is particularly disappointed to note that Sussex Police has failed to respond to this request, despite several attempts to elicit a response from both the complainant and the Commissioner, given that Sussex Police has just been subjected to formal monitoring by the Commissioner's office from July 2013 to September 2013 for its repeated delays in handling FOIA requests. Sussex Police must ensure that there is no repetition of this breach.

Right of appeal

14. 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: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

15. 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.
16. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Jon Manners
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