

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 1 October 2020

**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)**

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1. The complainant requested information from Sussex Police about law enforcement action involving a named individual. By the date of this notice Sussex Police had not issued a substantive response to this request.
2. The Commissioner's decision is that Sussex Police has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days. The Commissioner also finds that Sussex Police has breached section 17(1) of the FOIA for failing to issue a formal refusal notice.
3. The Commissioner requires Sussex Police to take the following step to ensure compliance with the legislation.
  - Sussex Police must provide a substantive response to the request in accordance with its obligations under the FOIA.
4. Sussex Police must take this step 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

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5. On 20 July 2020, the complainant wrote to the Fitness to Practice Team at Sussex Police and requested information in the following terms:

*"I write to request information about an incident in 2015 regarding [names and identifying details redacted].*

*[names and identifying details redacted].*

*The dentist was the subject of several formal complaints by patients to the Care & Quality Commission (CQC) in [year redacted]. A formal complaint was also made to the General Dental Council (GDC) in [year redacted] that was raised to the level of an official investigation, but the [identifying details redacted].*

*[identifying details redacted].*

*[identifying details redacted].*

*We understand from them that in 2015 (or thereabouts) one such incident led to police intervention at [name and identifying details redacted]. However, we are not aware of the full details and have no official confirmation of any complaint that police acted upon.*

*For that reason we would like to request whatever information the police have that could be made available to us regarding their law enforcement interactions with [name redacted]."*

6. The Fitness to Practice Team at Sussex Police replied to the request on 20 July 2020 to advise that the complainant would need to obtain a court order to request the information. The response made no reference to the FOIA and, as such, did not serve as a formal refusal notice in accordance with section 17(1).

## Scope of the case

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7. The complainant contacted the Commissioner on 24 July 2020 to complain about Sussex Police's failure to respond to their request.
8. The Commissioner has considered whether Sussex Police has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA and with its obligations in relation to section 17(1) of the FOIA.

## Reasons for decision

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9. Section 1(1) of the FOIA states that:

*"Any person making a request for information to a public authority is entitled –*

*(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*

*(b) if that is the case, to have that information communicated to him."*

10. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt"*.

11. Section 17(1) of the FOIA states that:-

*"a public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which –*

*(a) states that fact*

*(b) specifies the exemption in question, and*

*(c) states (if that would not otherwise be apparent) why the exemption applies."*

12. On 25 August 2020 the Commissioner wrote to Sussex Police, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days. The Commissioner drew attention to the response provided to the complainant on 20 July 2020 by the Fitness to Practice Team and outlined that this did not constitute a formal refusal notice in accordance with section 17(1) of the FOIA.

13. Despite this intervention Sussex Police has failed to respond to the complainant in accordance with the provisions of the FOIA.

14. From the evidence provided to the Commissioner in this case, it is clear that Sussex Police did not deal with the request for information in accordance with the FOIA. The Commissioner finds that Sussex Police has breached section 10(1) by failing to respond to the request within

20 working days and it is now required to respond to the request in accordance with the FOIA.

15. As Sussex Police did not issue a formal refusal notice in response to the complainant's request for information, the Commissioner considers that it has also breached section 17(1) of the FOIA.

### **Other matters**

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16. The Commissioner wishes to place on record her understanding of the immense pressures placed on public authorities during the coronavirus pandemic. She is sympathetic to the difficult decisions such authorities must make, between prioritising front-line services and continuing to meet their obligations under the FOIA.

## Right of appeal

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17. 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: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

18. 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.
19. 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 .....**

**Carolyn Howes**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**