

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 February 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)

1. The complainant requested information from Sussex Police about specified communications. 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.
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

5. On 29 October 2020, the complainant wrote to Sussex Police and requested information in the following terms:

"1. I would like to see any records you hold on communications between Sussex Police officers and Mr Peter Kyle MP which refer in any way to the Holiday Inn Hotel, Brighton, cancelling Mr Chris Williamson MP's speaking engagement on 8/8/19. I would like such records to include any email communications, telephone conversations, in-person communications, WhatsApp or other social media communications, text messages, or any other communications of whatsoever kind.

2. Mr Kyle has told me in an email (8/8/19) that 'whatever calls were received' by Holiday Inn were made by 'members of the Jewish community'. Has Mr Kyle been interviewed by you so he can tell you the identity of these callers? If not, why not?"
6. Sussex Police acknowledged the request on 29 October 2020. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 28 January 2021 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.

Reasons for decision

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. On 10 February 2021 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.
12. Despite this intervention Sussex Police has failed to respond to the complainant.
13. 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.

Other matters

14. 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

15. 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
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

16. 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.
17. 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