

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 January 2022

Public Authority: Chief Constable of South Wales Police

Address: Police Headquarters
Cowbridge Road
Bridgend
CF31 3SU

Decision (including any steps ordered)

1. The complainant requested information from South Wales Police ("SWP") about policies and training concerning authorisations made under section 60 of the Criminal Justice and Public Order Act 1994. By the date of this notice SWP had not issued a substantive response to this request.
 2. The Commissioner's decision is that SWP has breached section 10 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 SWP to take the following step to ensure compliance with the legislation.
 - SWP must provide a substantive response to the request in accordance with its obligations under the FOIA.
 4. SWP 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.
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Request and response

5. On 14 October 2021, the complainant wrote to SWP and requested information in the following terms:

"I write pursuant to the Freedom of Information Act 2000 ('the Act') to request some information. This request relates to the framework within which your officers make the decision of whether to make an authorisation under section 60 of the Criminal Justice and Public Order Act 1994 ('section 60').

1. Please confirm whether your police force has a policy and/or guidance relating to authorisations made under section 60, including factors which ought to be taken into account by authorising officers. If so, please provide copies of any and all such policies and guidance that are currently in use or have been in use in the last 10 years.

2. Please confirm how your police force complies with its Public Sector Equality Duty ('PSED') under section 149 of the Equality Act 2010 in relation to each decision to make a section 60 authorisation. If a standard document or procedure is used to record the way in which the PSED is satisfied in the authorisation process, please provide copies of any and all such documents and procedures.

3. Please confirm whether your police force provides training to officers responsible for making section 60 authorisations in respect of that power. If so, please provide details of any and all such training, including training documents and materials provided to officers or used during training sessions. Please also confirm the duration and frequency of such training sessions.

[...]

Under the Act, you are required to advise and assist those making information requests. Please therefore advise if any part of my request is unclear. Additionally, in the unlikely event that you anticipate that provision of this information will trigger the statutory costs limit, please let me know as soon as possible, and provide me with advice and assistance as to how I might refine my request. Notwithstanding this, if any part of the information requested is held, please prioritise providing the information in the order I have requested it (i.e. request 1 first, then 2, then 3), until the statutory costs limit is met.

If any of the information sought is already in the public domain, please kindly direct me to it, with page references and URLs, as necessary. Under the Act you are required to respond to this request within 20 working days of receipt.

Please kind acknowledge my request upon receipt.

Thank you in advance for your anticipated assistance”

6. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 16 December 2021 to complain about SWP’s failure to respond to their request.
8. The Commissioner has considered whether SWP has complied with its obligations in relation to the time for compliance at section 10 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 7 January 2022 the Commissioner wrote to SWP, 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 SWP has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that SWP did not deal with the request for information in accordance with the FOIA. The Commissioner finds that SWP has breached section 10 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.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF