

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 December 2023

Public Authority: Chief Constable of Sussex Police

Address: Sussex Police Headquarters
Church Lane
Lewes
East Sussex
BN7 2DZ

Decision (including any steps ordered)

1. The complainant requested information from the Chief Constable of Sussex Police ('the public authority'). By the date of this notice the public authority had not issued a substantive response to this request.
2. The Commissioner's decision is that the public authority has breached section 10(1) of 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 the public authority to take the following step to ensure compliance with the legislation.
 - The Police must provide a substantive response to the request in accordance with its obligations under FOIA.¹
4. The public authority 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 FOIA and may be dealt with as a contempt of court.

¹ The Commissioner expects the public authority to take appropriate precautions to protect any personal data when disclosing information in a spreadsheet or similar format; [Information Commissioner's Office - Advisory note to public authorities | ICO](#)

Request and response

5. On 30 June 2023, the complainant wrote to the public authority and requested information in the following terms:

"A copy of your civil disclosure process/policy and forms/documentation to address requests for information that, by way of examples, fall to the

- a. purposes of civil litigation under Schedule 2 part 1(5) of the DPA 2018
- b. SCHEDULE 2, Exemptions etc from the GDPR, PART 1, Adaptations and restrictions based on Articles 6(3) and 23(1). Crime:
 - i. 2(1) The listed GDPR provisions and Article 34(1) and (4) of the GDPR (communication of personal data breach to the data subject) do not apply to personal data processed for any of the following purposes
 1. the prevention or detection of crime,
 2. the apprehension or prosecution of offenders
 - c. The listed GDPR provisions do not apply to personal data where disclosure of the data
 - i. is necessary for the purpose of, or in connection with, legal proceedings (including prospective legal proceedings),
 - ii. is necessary for the purpose of obtaining legal advice, or
 - iii. is otherwise necessary for the purposes of establishing, exercising or defending legal rights, to the extent that the application of those provisions would prevent the controller from making the disclosure."

Reasons for decision

6. Section 1(1) of 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."

7. Section 10(1) of 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".

8. On 18 November 2023 the Commissioner wrote to the public authority, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
9. Despite this intervention the public authority has failed to respond to the complainant.
10. From the evidence provided to the Commissioner in this case, it is clear that the public authority did not deal with the request for information in accordance with FOIA. The Commissioner finds that the public authority 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 FOIA.

Right of appeal

11. 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

12. 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.
13. 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

Roger Cawthorne
Team Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF