

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 January 2018

Public Authority: Police and Crime Commissioner for Staffordshire

Address: Staffordshire Police Headquarters
Weston Road
Stafford
ST18 0YY

Decision (including any steps ordered)

1. The complainant has requested information about the purchase and use of mobile phone surveillance equipment from the Police and Crime Commissioner for Staffordshire ("the PCC"); to date she has not received a substantive response. The Commissioner's decision is that the PCC has breached sections 1(1) and 10(1) of the FOIA in that it failed to provide a valid response to the request within 20 working days of receipt. She requires it to comply with the request or to issue a valid refusal notice as set out in section 17 of the FOIA.
2. The PCC 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 FOIA and may be dealt with as a contempt of court.

Request and response

3. On 1 November 2016 the complainant wrote to the PCC and requested information about the purchase and use of mobile phone surveillance equipment by the Staffordshire Police. The complainant referred directly to minutes of the Alliance Government Group, as reported by journalist collective "The Bristol Cable", and an article in the Guardian newspaper; she provided links to the relevant articles. The request was worded as follows:

" I am writing on behalf of Privacy International to seek records ...relating to the purchase and use of mobile phone surveillance equipment by the Staffordshire Police ...

1. Records relating to the purchase of CCDC equipment, referred to in the Alliance Government Group minutes referenced above, including purchase orders, invoices, contracts, loan agreements, solicitation letters, correspondence with companies and other similar records.

2. Records relating to the "robust safeguards" and "legislation" to govern the use of CCDC equipment by Staffordshire Police that you referred to in the Guardian article referenced above.

3. Any other records, including legislation, codes of practice, policy statements, guides, manuals, memoranda, presentations, training materials or other records governing the use of CCDC equipment by Staffordshire Police, including restrictions on when, where, how, and against whom it may be used, limitations on retention and use of collected data, guidance on when a warrant or other legal process must be obtained, and rules governing when the existence and use of CCDC equipment may be revealed to the public, criminal defendants, or judges.

Privacy International seeks records regardless of how CCDC equipment is identified. In this respect, Privacy International notes that CCDC equipment can be referred to using a range of other terms, including "IMSI Catchers", "IMSI Grabbers", "Cell site simulators" and "Stingrays".

Please include copies of material that you hold either in the form of paper or electronic records, including emails. If possible, please provide all requested records in electronic format.

Upon locating the requested records, please contact us and advise us of any costs of providing copies, so that we may decide whether it is necessary to narrow our request.

We would appreciate a response as soon as possible and look forward to hearing from you shortly".

4. Receipt of the request was acknowledged on the same day.
5. On 1 December 2016 the complainant chased a response. The PCC advised on the same day that it was hoping to get: "*something out to you by next week*". A response was chased again on 16 and 22 December 2016 and, on 22 December 2016, the PCC advised:

"Apologies yes I should have your response by today/tomorrow at the latest and sorry for the delay".

6. A response was chased on several further occasions including 19 May 2017, 8 June 2017, 19 July 2017, 21 August 2017 and 7 September 2017.

Scope of the case

7. The complainant contacted the Commissioner on 15 December 2017 to complain about the lack of response to her information request.
8. The Commissioner contacted the PCC on 21 December 2017 asking the PCC to respond to the request within five working days. The PCC apologised for the delay and advised that it thought the request had been dealt with. It assured the Commissioner that a response would be sent to the complainant, and a copy provided for her information, within the five days.
9. No substantive response to the request had been provided by the date of this notice.

Reasons for decision

Section 1 – general right of access

Section 10 - time for compliance

10. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
11. Section 10(1) of the FOIA states that on receipt of a request for information a public authority should respond to the applicant within 20 working days.
12. From the information provided to the Commissioner in this case it is evident that the PCC did not deal with the request for information in accordance with the FOIA. In this case the PCC has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days. The PCC is now required to respond to the request of 1 November 2016 in accordance with the FOIA.

Other matters

13. As well as finding above that the PCC is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. This may form evidence in future enforcement action against the PCC should evidence from other cases suggest that there are systemic issues which are causing delays.

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: 0870 739 5836

Email: GRC@hmcts.gsi.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

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