

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 March 2018

Public Authority: Commissioner of the Metropolitan Police Service

Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant has requested information about the operation of a Pro Laser IIII device from the Metropolitan Police Service (the "MPS"). The Commissioner's decision is that the MPS breached section 10(1) of FOIA by failing to confirm that it holds the requested information within the statutory time limit. The Commissioner does not require the MPS to take any action as a result of this notice.

Request and response

2. On 18 October 2017 the complainant wrote to the MPS and requested information in the following terms:

"1. Any policy, or any other information that is detailed in any other document(s) or both, appertaining to any directions that are given to any MPS police officer who is trained to operate a pro Laser IIII device, with regard to how or when (or both) to use a piece of equipment if they decide to seek to ascertain whether a driver of any motor vehicle is exceeding any relevant speed limit on a public highway.

2. If it is at all different from the content in paragraph 1 above, any policy, or any other information that is detailed in any other document(s) or both, appertaining to any instructions that are given to any MPS police officer who is trained to operate a pro laser IIII device, with regards to how or when (or both) to use the piece

of equipment if they decide to seek to ascertain whether a driver of any motor vehicle is exceeding any relevant speed limit on a public highway.

3. If it is at all different to the content in paragraph 1 above or paragraph 2 above (or both), any policy, or any other information that is detailed in any other document(s) (or both), appertaining to any guidelines that are given to any MPS police officer who is trained to operate a pro laser IIII device, with regards to how or when (or both) to use the piece of equipment if they decide to seek to ascertain whether a driver of any motor vehicle is exceeding any relevant speed limit on a public highway.

4. Any information which stated that a Pro Laser IIII device is capable of accurately distinguishing between the speeds of two separate motor vehicles that are at the same time being driven in the same direction on a two lane public highway although, due to any physical obstruction(s) or barriers(s) (or both) in the way, the operator of the machine is without doubt unable to visually sight either motor vehicle at the moment when the piece of equipment is activated.

5. Any information which stated that a pro laser IIII device is capable of accurately displaying a particular vehicle or a vehicle index number (or both), in the form or any image(s) on the machine whilst any alleged speed of any motor vehicle that is being driven on a public highway is being recorded by the piece of equipment”.

3. The MPS acknowledged receipt of the request on 19 October 2017, however, when doing so it referred to a Pro Laser III device. On 24 October 2017, the complainant wrote to the MPS to clarify that he had specified a Pro Laser IIII; this was acknowledged on 27 October 2017.
4. Having received no further response, the complainant chased one on 23 November 2017.

Scope of the case

5. The complainant contacted the Commissioner on 8 December 2017 to complain about the lack of response to his information request.
6. On 3 January 2018, the Commissioner wrote to the MPS and asked it to respond to the complainant within 10 working days.

7. On 11 January 2018 the MPS wrote to the complainant. It responded specifically to parts (4) and (5) and also advised that it has included additional documentation to answer the remainder.
8. On 16 January 2018 the complainant wrote to the Commissioner to advise that the MPS had omitted to include any documentation with his response.
9. On 30 January 2018 the Commissioner raised this oversight with the MPS. The MPS actioned this on the same day.
10. On 15 February 2018 the complainant contacted asked the Commissioner and asked her to issue a decision notice to record the delay.

Reasons for decision

Section 10 – time for compliance

11. Section 10(1) of FOIA provides that a public authority should comply with section 1(1) within 20 working days. Section 1(1)(a) initially requires a public authority in receipt of a request to confirm whether it holds the requested information.
12. The request was submitted on 18 October 2017 and the complainant did not receive a response, which confirmed that the MPS was in possession of the relevant information, until 11 January 2018. The Commissioner therefore finds that the MPS has breached section 10(1) by failing to comply with section 1(1)(a) within the statutory time period.

Other matters

13. When responding to an information request which includes attachments or further documentation, the Commissioner would like to remind the MPS to ensure that these are included. Whilst she accepts that this will have been an administrative error, a complainant's dissatisfaction is only compounded by such an oversight.

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
Cheshire
SK9 5AF**