

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 August 2018

Public Authority: Chief Constable of Surrey Police
Address: Surrey Police Headquarters
PO Box 101
Guildford
GU1 9PE

Decision (including any steps ordered)

1. The complainant requested a copy of a non-disclosure agreement between Surrey Police and Vodafone.
2. The Commissioner's decision is that Surrey 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 Surrey Police to take the following step to ensure compliance with the legislation.
 - Surrey Police must issue a substantive response to the request in accordance with its obligations under the FOIA.
4. Surrey 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 30 May 2018, the complainant wrote to Surrey Police and requested information in the following terms:

"I write again in connection with the FOI request I made on 19 September 2017, the reference number for which is 165-17-937.

You kindly supplied me with a copy of the NDA between your force and Vodafone, for which I am grateful.

I note that the metadata on the copy you sent me was removed. Could you please send me the original document that you used as the basis for creating the PDF that you sent me. If it is an electronic document (which, judging by the clarity of the document it must be), please ensure that the metadata is not interfered with in any way."

6. Surrey Police responded on the same day. However, they dealt with the correspondence as a query relating to the complainant's previous request rather than a new request for information.

Scope of the case

7. The complainant contacted the Commissioner on 14 June 2018 to complain about Surrey Police's failure to respond to his information request.
8. On 22 June 2018 the Commissioner wrote to Surrey Police, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 20 working days.
9. Despite this intervention Surrey Police has failed to respond to the complainant.

Reasons for decision

10. 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."*

11. 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."*
12. From the evidence provided to the Commissioner in this case, it is clear that Surrey Police did not deal with the request for information in accordance with the FOIA. The Commissioner finds that Surrey 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.

Right of appeal

13. 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

14. 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.
15. 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

Ben Tomes
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Wycliffe House
Water Lane
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Cheshire
SK9 5AF