Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 July 2014

Public Authority: Commissioner of the Metropolitan Police Service

Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant requested copies of all emails sent and received by named individuals which contained specified terms. Despite a number of letters committing to provide a response, the Metropolitan Police Service (the 'MPS') has, by the date of this notice, yet to provide a substantive response to the request.

2. The Information Commissioner's decision is that the MPS breached section 10 of the FOIA in that it failed to provide a valid response to the request within 20 working days of receipt.

3. The Commissioner requires the MPS to take the following steps to ensure compliance with the legislation:

   - issue a response under the FOIA.

4. The public authority 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 12 June 2014 the complainant wrote to the MPS and requested information in the following terms:

> *"I would like to make a request under the Freedom of Information Act. Please could you provide copies of all emails sent and received since 19 September 2012 by (a) Sir Bernard Hogan-Howe (b) Craig Mackey which contain any of the following terms:- "Andrew Mitchell" – "pleb"- "Keith Wallis". I would be grateful if you could provide copies in PDF format. If certain information within the emails cannot be disclosed due to FOIA exemptions such as personal data, please could you nevertheless provide the full document with any offending words/sentences blacked-out as appropriate, citing the relevant exemptions."*

6. The MPS acknowledged receipt of the request on 19 March 2014. It stated that it was considering applying an exemption for legal professional privilege (section 42 of FOIA) and that it intended to consider the associated public interest test and would respond to the complainant by 23 April 2014.

7. There followed a series of correspondence in which the MPS gave the complainant assurances that his request would be answered and was being worked on as a priority. Despite these assurances, no substantive response to the request had been provided by the date of this notice.

Scope of the case

8. The complainant contacted the Commissioner on 12 June 2014 to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the fact that no substantive response had been provided.

9. On 24 and 30 June 2014 the Commissioner contacted the MPS, who confirmed that it was aware that the response was outstanding and said it was being prepared but had not been finalised and cleared for release.

Reasons for decision

10. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the

information requested. The Commissioner considers that the request in this case fulfilled these criteria, and therefore constituted a valid request under the FOIA for recorded information.

11. Section 10(1) of the FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt. From the information provided to the Commissioner it is evident that the MPS did not respond to the complainant within the statutory timeframe in respect of this request.

Conclusion

12. The Commissioner's decision is that the MPS did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the request within the statutory timeframe of 20 working days. At paragraph 2 above the MPS is now required to respond to the request of 29 January 2013 in accordance with the FOIA.

Other matters

13. As well as finding above that the MPS 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 MPS should evidence from other cases suggest that there are systemic issues within the MPS that 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: 0116 249 4253
    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 .....

Jon Manners
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