

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 January 2020

Public Authority: Chief Constable of Gwent Police
Address: Gwent Constabulary Headquarters
Croesyceiliog
Cwmbran
Gwent
NP44 2XJ

Decision (including any steps ordered)

1. The complainant has requested data on record-keeping discrepancies.
2. The Commissioner's decision is that the Chief Constable of Gwent Police ("the Police") failed to confirm or deny holding information and failed to issue its refusal notice within 20 working days. It therefore breached sections 10 and 17 of the FOIA respectively.
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 13 September 2019, the complainant contacted the Police via the whatdotheyknow.com website and, referencing a previous report by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS), requested information in the following terms:

"Please provide the data on file which applies to the below.

"Since the HMICFRS inspects on a regular basis:

[1] Could you please provide the data for of any procedure (including disciplinary) when officers are found NOT to have recorded crimes reported to them by the public - as the report states.

[2] And during the last three years, how many employees have been disciplined for not recording reported crimes in the proper manner?

[3] How many employees have reportedly lost the evidence from cases in which they have been involved during this period? This would be via public complaints that they have done so."

5. On 3 October 2019, the Police responded and asked the complainant to clarify the time parameters of the request. The complainant provided this clarification on the same day.
6. The Police issued their formal response on 14 November 2019. They supplied information in respect of elements [2] and [3] of the request. In respect of element [1], they noted that such incidents would not meet the criteria for disciplinary action and, because records of other procedures were not held centrally, this information could not be collated without examining each officer's record manually. This process would exceed the "appropriate limit" and thus section 12 of the FOIA would apply.
7. The complainant contacted the Police on 15 November 2019 in the following terms:

"It should be clear that I am NOT asking you to look at every policeperson record individually.

"And that I have already accepted that you cannot do so. Due to the time constraint,

"I am asking for the 'Gwent Police - Crime Data Integrity inspection 2018 by HMICFRS', of which you should have a copy. - including any statistical data (And internal advice to the GP) which the inspectors have produced."
8. The Police issued a further response on 21 November 2019. It provided the complainant with a link to the HMICFRS report.

Scope of the case

9. The complainant first contacted the Commissioner on 8 November 2019 to complain about the lack of response from the Police. The Police's response was issued after the complaint was lodged but before the Commissioner had been able to begin her investigation.

10. At the outset of her investigation, the Commissioner noted that, according to the correspondence visible on the whatdotheyknow.com thread, the complainant was not interested in the part of the request that the Police had refused under section 12 and that the complainant now appeared to have the information she originally wanted. She therefore invited the complainant to withdraw her complaint.
11. The complainant contacted the Commissioner again on 13 January 2019. She was unhappy with the delayed response from the Police and unhappy about the use of section 12 to refuse to provide her with information which she did not consider she had sought.
12. The Commissioner does not consider that the Police's interpretation of the scope of the information falling within the complainant's request was unreasonable and, because of the way that information was held, it would be likely that responding to element [1] of the request would be burdensome. However, given that the complainant has already made clear that she did not require that information and appears to have sourced the information she does require from elsewhere, the Commissioner considers that it would serve no useful purpose to investigate the Police's use of section 12.
13. The Commissioner has therefore restricted the scope of this decision notice to the timeliness with which the request was responded to.

Reasons for decision

Section 10 – Timeliness

14. Section 1(1) of the 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.*

15. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
16. The Police did seek clarification from the complainant and therefore the date they received the request was 3 October 2019.

17. From the evidence presented to the Commissioner in this case, it is clear that, despite the additional time, the Police still failed to confirm or deny holding information, within the scope of the request, within 20 working days. The Commissioner therefore finds that the Police breached section 10 of the FOIA in responding to the request.

Section 17 – Refusal Notice

18. Section 17(5) of the FOIA states that:

"A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact."

19. The correspondence on the whatdotheyknow.com thread shows that the Police did not issue its refusal notice, relying on section 12, within 20 working days of receiving the clarified request.
20. The Commissioner therefore finds that the Police breached section 17 of the FOIA in responding to the request.

Right of appeal

21. 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@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

22. 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.
23. 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

**Phillip Angell
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**