

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 January 2024

Public Authority: Chief Constable of Essex Police

Address: PO Box 2
Springfield
Chelmsford
Essex
CM2 6DA

Decision (including any steps ordered)

1. The complainant requested information from Chief Constable of Essex Police (the public authority). By the date of this notice the public authority had not issued a substantive response to this request.
2. The Commissioner's decision is that the public authority has breached section 10(1) of 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 the public authority to take the following step to ensure compliance with the legislation.
 - The public authority must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The public authority 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. The complainant received a response to a previous information request they submitted to the public authority on 20 August 2023. On 26 September 2023, the complainant wrote to the public authority and requested new information in the following terms:

"a) You state:

"Essex Police can confirm that under the Data Protection Act 2018 and UK GDPR there are certain exemptions and / or conditions that may apply, where we would reveal third party personal data without their consent e.g. judicial matters; public interest;"

Please provide any recorded information you have about what you consider amounts to 'public interest'...

b) In the Request for Information – Civil Proceedings, you state:

"Disclosures are discretionary and each request is considered on its own merit. Disclosure is based on careful consideration of all facts including the necessity, suitability, fairness, lawfulness, proportionality, adequacy and relevancy."

Please provide any recorded guidance on how this discretion should be exercised. Or is it left to the whim of an individual member of staff?"

Reasons for decision

6. 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."

7. Section 10(1) of 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".

8. On 4 December 2023 the Commissioner wrote to the public authority, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
9. Despite this intervention the public authority has failed to respond to the complainant.
10. From the evidence provided to the Commissioner in this case, it is clear that the public authority did not deal with the request for information in accordance with FOIA. The Commissioner finds that the public authority 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 FOIA.

Right of appeal

11. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

12. 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.
13. 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

Roger Cawthorne
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF