

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 18 April 2024

**Public Authority:** Chief Constable of the Police Service of Northern Ireland (PSNI)

**Address:** 65 Knock Road  
Belfast  
BT5 6LE

#### **Decision (including any steps ordered)**

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1. The complainant requested information from the Chief Constable of the Police Service of Northern Ireland (PSNI). 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 failed to complete its deliberations on the balance of the public interest within a reasonable time and has therefore breached section 17(3) of FOIA.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation.
  - Either issue a refusal notice, that cites an appropriate exemption from the duty to confirm or deny that the information is held; or
  - Confirm or deny that it holds the information within the scope of the request; and

- Having confirmed whether or not information is held within the scope of the request: either disclose the requested information or, to the extent that information is to be withheld, issue a refusal notice in accordance with the requirements of section 17 of FOIA.<sup>1</sup>
4. The public authority must take this step within 30 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

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5. On 1 July 2023, the complainant made the following request for information to the public authority:
- "Can you please provide me with details of, and any copies of, correspondence between the PSNI and BBC Spotlight or between BBC Spotlight and the PSNI, from March 2022 to June 2023."
6. On 31 July 2023, the public authority wrote to the complainant to explain that it needs to consider whether it can comply with its duty to confirm or deny the requested information is held, and if so comply with section 1(1)(b). PSNI explained that in order to do this, it would need to extend the time taken to complete its public interest test considerations in respect of an exemption under section 43(2) of FOIA.

## Reasons for decision

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7. 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

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[<sup>1</sup> The Commissioner expects the public authority to take appropriate precautions to protect any personal data when disclosing information in a spreadsheet or similar format; [Information Commissioner's Office - Advisory note to public authorities | ICO](#)]

(b) if that is the case, to have that information communicated to him.”

8. 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”.
9. Section 17(3) of FOIA states that where a public authority is relying on a qualified exemption, it can have a “reasonable” extension of time to consider the public interest in maintaining the exemption or disclosing the information.
10. FOIA does not define how long a reasonable time is. The section 45 Code of Practice on request handling states that “it is best practice for an extension to be for no more than a further 20 working days”.<sup>2</sup> This means that the total time spent responding to a request should not exceed 40 working days unless there are exceptional circumstances.
11. On 3 April 2024, the Commissioner wrote to the public authority, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. To date, a substantive response has still not been provided.
12. In this case, the total time taken by the public authority has greatly exceeded 40 working days. The Commissioner is aware that PSNI is currently responding to a “significant volume of requests”, however he does not consider there to be any exceptional circumstances to justify a more than eight month delay to complete its deliberations on the public interest, and finds that the public authority has not complied with section 17(3).
13. The public authority is now required to finalise its public interest considerations under section 17(3) of FOIA and respond to the complainant.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/744071/CoP\\_FOI\\_Code\\_of\\_Practice\\_-\\_Minor\\_Amendments\\_20180926\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf)

## **Right of appeal**

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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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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.

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