

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

### **Decision notice**

**Date:** 16 April 2014

**Public Authority:** Crown Prosecution Service  
**Address:** Rose Court  
2 Southwark Bridge  
London  
SE1 9HS

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

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1. The complainant requested information relating to his late brother's prosecution. By the date of this notice the Crown Prosecution Service ('the CPS') had yet to provide a substantive response to this request. The Information Commissioner's decision is that the CPS breached section 10 of the FOIA in that it has failed to provide a response to the request.
2. The Commissioner requires the CPS to take the following step to ensure compliance with the legislation:
  - Issue a response to the request under the FOIA by either complying with section 1(1) or issuing a valid refusal notice.
3. 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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4. On 24 August 2013 the complainant wrote to the CPS and requested information as follows:

"The information that I request is as follows:

1. Schedule of Non-Sensitive unused material
2. Unused materials, including witness statements, forensic reports and other records that are contained in the Schedule of Non-Sensitive Unused Material.
3. Defence statements.
4. Policy documents relating to the investigation.
5. Notes/statements maintained by Medical Staff including Accident & Emergency personnel at the scene/hospital or Ambulance Crew.
6. Medical examination reports.
7. Any Public Interest Immunity applications made to the court.
8. Interview transcripts.
9. Transcripts of interviews with other suspects/witnesses interviewed at Hounslow and Brentford police station in West London and other suspects/witnesses interviewed in other police stations in London relating to this investigation.
10. Previous convictions of the defendant, witnesses and other suspects.
11. Scene of crime records, photographs and videos.
12. Incident Report Log Book.
13. HOLMEM computer records.
14. CID Office Diary.
15. Pocket Notebooks/Investigator's Notebook Entries/desk diaries of CID Officers.
16. Evidence containing first description of the suspect.
17. Any information/evidence which may have affected the credibility of the Crown Prosecution witnesses.

18. Custody records.
  19. Search warrants.
  20. Records of House-to-House enquiries.
  21. RIP A application forms.
  22. Post-mortem report and photographs.
  23. Solicitor's correspondence file.
  24. Forensic expert reports.
  25. Appeal documents such as advice on appeal, appeal judgement."
5. The CPS issued an acknowledgment of receipt of the request on 30 August 2013.
  6. The CPS has not provided any response.

### **Scope of the Case**

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7. The complainant wrote to the Commissioner on 23 January 2014 to complain about the lack of any response.
8. The Commissioner wrote to the CPS on 4 February 2014 asking it to respond. In the absence of any response the complaint was referred for investigation.
9. On 22 January 2014 the Commissioner wrote again to the CPS asking for an explanation of the delay. Following subsequent telephone calls the CPS informed the Commissioner that a response was in progress.
10. No substantive response to the request or explanation for the delay had been provided by the date of this notice.

### **Reasons for decision**

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11. **Section 1(1)** states:

*1(1) Any person making a request 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.*

12. **Section 8(1)** states:

*8(1) In this Act any reference to a "request for information is a reference to such a request which –*

*(a) Is in writing,*

*(b) States the name of the applicant and an address for correspondence, and*

*(c) Describes the information requested.*

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

14. Section 10(1) of the FOIA states 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.

15. From the information provided to the Commissioner it is evident that the CPS did not respond to the complainant within the statutory timeframe in respect of this request.

16. The Commissioner's decision is that the CPS 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. As it has still not responded to the request, the CPS is now formally required by the Commissioner to respond to the request of 24 August 2013.

## Right of appeal

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17. 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](mailto:GRC@hmcts.gsi.gov.uk)

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

19. 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.
20. 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 .....**

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