

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 May 2014

Public Authority: Chief Constable of West Midlands Police

Address: Police Headquarters

Lloyd House

Colmore Circus

Birmingham

B4 6NQ

Decision (including any steps ordered)

1. The complainant has requested administrative information about West Midlands Police's (WMP) handling of a number of subject access requests. WMP did not provide a response to the request within 20 working days.
2. The Commissioner's decision is that WMP has not responded to the complainant's request within the statutory time frame of 20 working days and so it breached section 10(1) of the FOIA. However, WMP subsequently provided a response to the complainant and therefore the Commissioner does not require it to take any further steps to comply with the legislation.

Background

3. The complainant had submitted a subject access request to WMP on 14 September 2013, and by early December he had still not received a response to it. WMP cited staffing shortages for the delay and said that his request was caught in a backlog of subject access requests waiting to be processed. It was unable to estimate when the request would be answered. The complainant decided to make an FOIA request to establish whether the subject access requests received either side of his request had been dealt with while a response to his request remained outstanding.

Request and response

4. On 3 December 2013, the complainant wrote to WMP and made the following request for information:

"... could I register the following FOIA/DPA request with you:

I registered a request for information with you seeking access to readily available information on 14 September 2013. It was registered as request 1105/13.

Please disclose the dates and reference numbers of the 5 previous registered requests and dates on which they were responded to.

Please disclose the dates and reference numbers of the following 5 requests and the dates they were concluded, or if they are outstanding."

5. On 13 December 2013 WMP wrote to the complainant and asked him to clarify whether he was asking for information relating to his own subject access requests. The complainant responded the same day and explained that he wanted information about subject access requests submitted by other people.
6. WMP and the complainant continued to correspond on matters which formed the wider background to this request, but WMP did not supply a response to the FOIA request until 14 February 2014, after the Information Commissioner intervened.

Scope of the case

7. The complainant contacted the Commissioner on 2 January 2014 to complain about the fact that he had not received a response to his request from WMP.
8. The Commissioner has considered whether WMP complied with the FOIA.

Reasons for decision

9. Section 1 of FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds the information and, if so, to have that information communicated to him.
10. Section 10(1) of the FOIA provides that this must be done within 20 working days of receiving a request. However, where a public authority needs further information to identify and locate the requested information and has contacted the requester for clarification, the 20 working days does not start until the day after the public authority receives the information it requires to comply with the request.
11. In this case, although the complainant submitted the request on 3 December 2013, on 13 December 2013 WMP asked him to clarify the information he was asking for. The complainant provided the clarifying information on 13 December 2013. Therefore, for the purposes of compliance with section 10(1), the Commissioner considers the date of the request to be 16 December 2013, the next working day.
12. In order to comply with the 20 working day time limit, WMP should have provided its response to the request by 16 January 2014. However, the Commissioner notes that WMP sent its response to the complainant's request on 14 February 2014. It has therefore not responded to the complainant's request within the statutory time frame and so it breached section 10(1) of FOIA.

Right of appeal

13. 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

14. 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.
15. 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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Cheshire
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