

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 June 2019

Public Authority: Commissioner of the Metropolitan Police
Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant requested information regarding a particular criminal investigation.
2. The Commissioner's decision is that the Commissioner of the Metropolitan Police Service ("the MPS") failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the MPS to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The MPS 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

5. On 6 November 2019, the complainant wrote to the MPS and requested information in the following terms:

"please would you issue me with the full factual evidence file on the investigation rendered by the police, in the complaint against

Grosvenor House Collections art dealers. Regarding 7 pieces of missing artwork by the artist John Kingerlee."

6. The complainant also asked for the information to be provided in a paper format and organised by calendar year.
7. The MPS acknowledged the request on the same day, but had failed to provide a substantive response by the date of this notice.

Chronology of the complaint

8. The complainant first contacted the Commissioner on 11 April 2019 to complain about the failure, by the MPS, to respond to the request.
9. In line with her usual practice, the Commissioner contacted the MPS on 8 May 2019 to highlight the outstanding response. She requested that the MPS respond to the request within 10 working days.
10. The MPS responded on 14 May 2019. It said that it had not responded to the request because:

"we received no response to correspondence (dated 09/03/2019) enquiring as to whether the requested information was still required."
11. The MPS implied that it could not process the original request. It stated that it could either log a fresh request or treat the Commissioner's correspondence as a request for an internal review.
12. Whilst the Commissioner considered this to be an unsatisfactory way of addressing a valid information request, as a practical way forward, she suggested that the MPS invoke its internal review procedure and issue a response to the complainant within 20 working days. However, she also made it clear to the MPS that, in view of the delays in processing the request, she would not require the complainant, if he remained dissatisfied, to undergo a further internal review before bringing his complaint to the Commissioner.

Scope of the case

13. The complainant contacted the Commissioner on 14 June 2019 to complain that the MPS had still not responded to the request.
14. In view of the fact that a response remains outstanding despite her intervention, the Commissioner considers that a decision notice is now appropriate.
15. The scope of this notice and the following analysis is to consider whether MPS has complied with section 10 of the FOIA.

Reasons for decision

16. 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.*

17. Section 8(1) of the FOIA states:

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.*

18. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
19. 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.*"

20. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the MPS has breached section 10 of the FOIA.

Other matters

21. As well as the statutory breach, the Commissioner has further concerns about the way that the MPS handled this request.
22. The Commissioner is aware that the MPS is dealing with a backlog of information requests. Whilst she considers that a policy of revisiting older requests to check whether the information is still required is poor practice, she accepts that it may be a practical measure which can help to manage the backlog.
23. Nevertheless, the MPS must be aware of its own failures to deal with requests in a timely fashion when setting arbitrary deadlines for requestors. In particular, when the MPS is made aware that information is still required, those requests must be dealt with expeditiously.

Right of appeal

24. 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

25. 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.
26. 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

**Ben Tomes
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**