

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 September 2020

Public Authority: Chief Constable of Sussex Police

Address: Sussex Police Headquarters

Malling House

Church Lane

Lewes

East Sussex

BN7 2DZ

Decision (including any steps ordered)

1. The complainant requested information from Sussex Police about noise level testing.
2. The Commissioner's decision is that Sussex Police has breached section 10(1) of the 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 Sussex Police to take the following step to ensure compliance with the legislation.
 - Sussex Police must provide a substantive response to the request in accordance with its obligations under the FOIA.
4. Sussex Police 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 the Act and may be dealt with as a contempt of court.

Request and response

5. On 27 September 2019, the complainant wrote to Sussex Police and requested information in the following terms:

"Please can you tell me if any noise level testing has been carried out at Kingstanding public order training centre in Ashdown Forrest.

Specifically, in the violent person room whilst the training is taking place.

If the answer is yes, please can you supply me with the noise levels recorded?"

6. Sussex Police acknowledged the request on 1 October 2019. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 12 June 2020 to complain about Sussex Police's failure to respond to their request.
8. The Commissioner has considered whether Sussex Police has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

9. 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."

10. Section 10(1) of the 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"*.
11. On 12 August 2020 the Commissioner wrote to Sussex Police, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days. The Commissioner

asked Sussex Police to inform her if there were any specific reasons relating to the Covid-19 pandemic which would prevent it from providing a response to the request. Sussex Police did not reply to the Commissioner's correspondence.

12. Despite this intervention Sussex Police has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that Sussex Police did not deal with the request for information in accordance with the FOIA. The Commissioner finds that Sussex Police 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 the FOIA.

Other matters

14. The Commissioner wishes to place on record her understanding of the immense pressures placed on public authorities during the coronavirus pandemic. She is sympathetic to the difficult decisions such authorities must make, between prioritising front-line services and continuing to meet their obligations under the FOIA.
15. The Commissioner notes, however, that a response to a request for information made on 27 September 2019 was due well before the coronavirus disruption began. This has been a necessary consideration in her decision to issue this notice.

Right of appeal

16. 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

17. 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.
18. 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
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF