

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 29 March 2021

Public Authority: Chief Constable of South Wales Police
Address: Police Headquarters
Cowbridge Road
Bridgend
CF31 3SU

Decision (including any steps ordered)

1. The complainant requested details of charges brought in respect of mountain fires in Rhondda. South Wales Police failed to respond to the request within the statutory time for compliance. Accordingly the Commissioner's decision is that South Wales Police failed to comply with section 17(1) of FOIA. Since South Wales Police has now issued a response the Commissioner does not require any steps to be taken.

Request and response

2. On 7 May 2020 the complainant requested the following information from South Wales Police:

"On Monday 20.4.20 there were dangerous mountain fires behind Oakland Drive and Meadow Walk in Ystrad, Rhondda. The fires were apparently deliberately lit and I understand that three individuals have been arrested for the criminal act of arson. The fires were a threat to my and other householders properties and I would be grateful if you would inform what charges have been made in respect of the incident."
3. The complainant contacted South Wales Police on 12 May 2020 to chase his request, and on the same day South Wales Police advised that the request had been passed to its Data Disclosure team. The complainant contacted South Wales Police again on 19 May 2020 because he had not received a formal acknowledgement of his request.
4. On 31 May 2020 the complainant resubmitted his request to South Wales Police's FOI email address.

5. On 11 June 2020 the complainant contacted the South Wales Police and Crime Commissioner to complain that he had not received a response to his request. The Police and Crime Commissioner's office responded the same day to say that it had forwarded his email to South Wales Police.
6. On 12 June 2020 the Police and Crime Commissioner's office advised the complainant that South Wales Police had confirmed receipt of the request and should respond by 26 June 2020.
7. On 29 June 2020 South Wales Police responded to the complainant. It issued a refusal notice citing section 40(5) and stated that it was refusing to confirm or deny that it held the requested information.
8. On the same day the complainant contacted South Wales Police to complain about the response. The complainant stated that he was not seeking personal details of the individuals concerned, but wanted to know what action had been taken following the arrests.
9. On 6 August 2020 and 1 September 2020 the complainant contacted South Wales Police to chase the outcome of the internal review.
10. On 1 September 2020 and 1 October 2020 the complainant contacted the South Wales Police and Crime Commissioner to complain that he had not received the outcome of the internal review.
11. On 19 October 2020 South Wales Police provided the complainant with the outcome of the internal review.
12. Having received the outcome of the internal review the complainant remained dissatisfied with the time taken to respond to his request. On 20 October 2020 he submitted a further formal complaint to South Wales Police regarding the way it handled his request. The complainant subsequently spoke to South Wales Police, who advised that it would not be appropriate for it to investigate its own handling of the request. The complainant consequently asked for contact details of the Information Commissioner.
13. On 28 October 2020 South Wales Police provided the complainant with a copy of its FOI complaints procedure. This included details of the ICO website, although the website address was out of date.
14. On 29 October 2020 the complainant contacted South Wales Police to complain that he had asked for the address and email contact address of the ICO.
15. On the same day South Wales Police provided the complainant with contact details for the ICO's office in Wales.

Scope of the case

16. The complainant contacted the Commissioner on 3 November 2020 to complain about the way South Wales Police handled his request.
17. The complainant acknowledged that South Wales Police had a heavy, busy workload. However he told the Commissioner that he had experienced "uncooperativeness, bordering on obstructiveness in answering what I regard to be a simple request for information."
18. Accordingly the complainant asked that the Commissioner issue a decision notice recording the time taken to respond to his request. He did not ask the Commissioner to make a decision regarding the substance of the request; therefore the Commissioner's investigation was limited to the time for response.

Reasons for decision

Section 1: general right of access

Section 17: refusal notice

19. Section 1(1)(a) of FOIA requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
20. Section 10(1) requires that the public authority comply with section 1 promptly, and in any event no later than 20 working days after the date of receipt of the request.
21. If a public authority refuses to comply with any part of section 1, it must issue a refusal notice that meets the requirements of section 17 of FOIA. The refusal notice must be issued within the 20 working day time for compliance.
22. The statutory time for compliance has not been extended as a result of the Covic-19 pandemic, although the Commissioner has published a

position paper setting out her regulatory approach in the context of the pandemic.¹

23. The Commissioner understands that most, if not all, public authorities have been affected by the pandemic. However, the Commissioner also expects public authorities to have robust procedures in place to ensure that requests are logged and progressed as promptly as possible.
24. In this case South Wales Police responded to the request outside the statutory time for compliance of 20 working days.
25. The Commissioner has seen no evidence that South Wales Police deliberately sought to obstruct the complainant's request. However the Commissioner understands the complainant's frustration at the apparent lack of communication from South Wales Police.
26. There is no statutory requirement for a public authority to acknowledge requests, but the Commissioner considers it to be good practice to do so. Where a public authority expects its response to be delayed, for example as a result of Covid-19 – related pressures, the Commissioner expects the authority to explain this to the requester as soon as possible. It should also, where possible, provide an indication as to when the response will be issued.
27. In this case South Wales Police clearly received the request submitted on 7 May 2020, because on 12 May 2020 it advised that it had transferred the request to its Data Disclosure Unit. The complainant was not obliged to resubmit his request on 31 May 2020, but having done so he remained entitled to a response to his original request of 7 May 2020. South Wales Police did not acknowledge receipt of this correspondence until the complainant contacted the South Wales Police and Crime Commissioner.
28. The Commissioner observes that South Wales Police does not appear to have taken any substantive action until the South Wales Police and Crime Commissioner became involved. At this point South Wales Police appears to have taken 31 May 2020 as the date the complainant's request was received, ie the date the request was resubmitted. However it is not clear why this date was selected, as opposed to the date of the original request on 7 May 2020.

¹ <https://ico.org.uk/media/about-the-ico/policies-and-procedures/2617613/ico-regulatory-approach-during-coronavirus.pdf>

29. The Commissioner finds that South Wales Police failed to comply with section 10(1) in respect of section 17(1). It clearly failed to issue its refusal notice within 20 working days of the original request being submitted on 7 May 2020. However, since the response has now been issued the Commissioner does not require any further steps to be taken.
30. The Commissioner expects South Wales Police to take steps to ensure that requests are more promptly and effectively processed in future.

Right of appeal

31. 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 123 4504
Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

32. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Tribunal website.
33. 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

**Sarah O’Cathain
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Information Commissioner’s Office
Wycliffe House
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Wilmslow
Cheshire
SK9 5AF**