

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

### **Decision notice**

**Date:** 14 October 2022

**Public Authority:** Chief Constable Sussex Police  
**Address:** Sussex Police Headquarters  
Malling House  
Church Lane  
Lewes  
East Sussex  
BN7 2DZ

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

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1. The complainant has requested information from Sussex Police relating to emails containing the words "drone", "Gatwick" and "witness".
2. Sussex Police refused the request, on the grounds that the information was exempt from disclosure under section 30(1) (investigations and proceedings) of FOIA and section 40(2) (personal information).
3. The Commissioner's decision is that Sussex Police was entitled to rely on section 30(1)(a)(i) of FOIA to withhold the information and that this applied to all the information, so he has therefore not considered the exemption under section 40. However, he found that Sussex Police breached sections 1(1) and 10(1) of FOIA by exceeding the statutory time for compliance when responding to the request.
4. The Commissioner requires no steps as a result of this decision notice.

## Request and response

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5. On 22 May 2022, the complainant made the following request for information under FOIA:

"Please can I have copies of any emails that include both of the words shown below within the double quotation marks, anywhere in the email body or email subject title, within the specified date range? There are three individual requested searches listed below. Do not include in your response any emails that only have one of the words listed below, for each of the three searches.

Please also notify me how many records each of these three search criteria return individually.

Date range: 19th Dec 2018 to 18th Jan 2019

1st Search words : "Gatwick" AND "drone"

2nd Search words : "Gatwick" AND "witness"

3rd Search words: "Gatwick" AND "witnesses"

Search Scope: The entire email account of the following individual Sussex Police member of staff.

Email account: Superintendent [name redacted]."

6. Sussex Police advised they would not release the information as it was exempt under section 30(1) of FOIA as it related to a police investigation. They also considered section 40 of FOIA to be engaged as the emails would contain personal data that would make individuals identifiable.
7. Sussex Police did not provide an internal review when requested to do so, however have assured the Commissioner they have no further submissions to make in this case and maintain their position. The Commissioner notes he has already provided a decision notice on a very similar case which is referenced below.<sup>1</sup>

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<sup>1</sup> [ic-145439-n6m3.pdf \(ico.org.uk\)](#)

## **Reasons for decision**

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### **Section 10 - Time for compliance**

8. Section 1(1) of FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
9. Section 10(1) of FOIA states that on receipt of a request for information, a public authority should respond to the applicant within 20 working days.
10. In this case, the complainant originally submitted his request on 22 May 2021 and Sussex Police provided its response on 30 March 2022. It therefore breached sections 1(1) and 10(1) of FOIA by failing to respond to the request within 20 working days.

### **Section 30 - Investigations and proceedings**

11. The following analysis sets out why the Commissioner has concluded that the public authority was entitled to rely on section 30(1)(a) of FOIA in this case.
12. Section 30(1)(a) of FOIA allows a public authority to withhold information if it has at any time been held by the authority for the purpose of any investigation, which the public authority has a duty to conduct with a view to it being ascertained whether a person should be charged with an offence.
13. The Commissioner considers the reference in the legislation to "any time" to include any specific ongoing, closed or abandoned investigation.
14. Sussex Police have confirmed to the Commissioner that the emails would be related to an investigation into drone activity around Gatwick. This investigation related to offences of "serious disruption to an aerodrome" contrary to Section 1(2)(b) of the Aviation and Maritime Security Act 1990, which carries a maximum penalty of life imprisonment. Irrespective of the dates indicated by the complainant, investigations would be ongoing if new information came to light.
15. The Commissioner has not seen the withheld information but is satisfied that Sussex Police has a duty to investigate allegations of criminal offences by virtue of its core function of law enforcement. They hold the power to carry out investigations of the type described in section 30(1)(a)(i) of FOIA.

16. The Commissioner is therefore satisfied that the withheld information is correspondence held in relation to a specific investigation conducted by Sussex Police of the type described in section 30(1)(a)(i) of FOIA and the exemption is engaged.

**Public interest test**

17. Sussex Police provided a comprehensive public interest test in their original response to the complainant. The Commissioner agrees with their reasoning and notes similar findings were endorsed in the case referenced in paragraph seven.
18. The Commissioner agrees that in this case the public interest in maintaining the exemption outweighs the public interest in disclosure.
19. The Commissioner finds that Sussex Police was entitled to rely on section 30(1)(a)(i) of FOIA to refuse this request for information under FOIA.

## Right of appeal

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20. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

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

21. 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.
22. 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** .....

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