

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

### **Decision notice**

**Date:** 26 October 2022

**Public Authority:** Chief Constable of West Midlands Police

**Address:** Lloyd House  
Snow Hill Queensway  
Birmingham B4 6DG

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

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1. The complainant requested information relating to diversity and inclusion.
2. West Midlands Police denied holding the requested information.
3. The Commissioner's decision is that, on the balance of probabilities, West Midlands Police does not hold the requested information.
4. The Commissioner requires no steps to be taken as a result of this decision.

#### **Request and response**

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5. On 21 March 2022, the complainant wrote to West Midlands Police and requested information in the following terms:

"1. Does West Midlands police currently issue its new employees with any and or all the following ...

- (a) A language guide or similar which advises employees on the most appropriate words, phrases, and terms to use when writing to and or communicating with and or referring to their colleagues and or members of the public and or the organisation's clients/customers/service users and or representatives and employees in the organisation's stakeholder and partner organisations. ....

- (b) A guide or similar which helps and encourages staff to promote diversity and inclusivity both in the workplace and or in their dealings with members of the public and or in their dealings with the organisation's clients/customers/service users and or in their dealings with employees in and or representatives of the organisation's stakeholders and partner organisations. ....
- (c) A guide or similar which advises staff on the importance of respecting and using a person's preferred gender pronoun. ....

2. If you have answered yes to any part (or indeed all of question one) can you please provide copies of the guidance irrespective of the form in which it is issued.

3. Since January 1, 2019, has the organisation issued any kind of guidance (as defined in question 1 a to c) to other employees other than new recruits. If the answer is yes, can you, please provide copies of the guidance irrespective of the form in which it is issued".

- 6. West Midlands Police denied holding information within the scope of parts 1(a), (b) or (c) of the request.

### **Scope of the case**

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- 7. The complainant contacted the Commissioner on 8 June 2022 to complain about the way his request for information had been handled.
- 8. He disputed that West Midlands Police does not hold the requested information.
- 9. The Commissioner has considered whether, on the balance of probabilities, West Midlands Police holds the requested information.

### **Reasons for decision**

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- 10. Section 1(1) of FOIA provides 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.”

11. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the authority to check that the information is not held and any other reasons offered by the public authority to explain why the information is not held. Finally, he will consider any reason why it is inherently likely or unlikely that information is not held.
12. For clarity, the Commissioner is not expected to prove categorically whether the information is held, he is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.
13. The Commissioner recognises that the complainant believes that West Midlands Police holds the information he requested on the basis that its staff have access to external training material.
14. However, having considered West Midlands Police's reasons for saying that no relevant information is held, the Commissioner accepts the explanation provided that West Midlands Police is not responsible for the external courses.
15. His decision in this case is that, on the balance of probabilities, West Midlands Police does not hold recorded information within the scope of the request. He is therefore satisfied that West Midlands Police has complied with the requirements of section 1 of FOIA.

## Right of appeal

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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: 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)

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 .....**

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