

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

### **Decision notice**

**Date:** 26 June 2023

**Public Authority:** Chief Constable of Cambridgeshire  
Constabulary

**Address:** Constabulary Headquarters  
Hinchingsbrooke Park  
Huntingdon  
Cambridgeshire  
PE29 6NP

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

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1. The complainant has requested information about an action undertaken by Cambridgeshire Constabulary. Cambridgeshire Constabulary initially directed the complainant to a statement on its website, citing section 21 (Information accessible to applicant by other means) of FOIA. Following an internal review, it confirmed holding further information but did not either disclose this or issue a refusal notice which explained why it was exempt from disclosure.
2. The Commissioner's decision is that, in failing to properly address the request, Cambridgeshire Constabulary has breached section 1 of FOIA. He requires Cambridgeshire Constabulary to take the following steps to ensure compliance with the legislation:
  - Issue a fresh response to the request, either disclosing all information held or issuing a refusal notice which complies with section 17(1) of FOIA, explaining why it is exempt from disclosure.
3. Cambridgeshire Constabulary 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 Act and may be dealt with as a contempt of court.

## Request and response

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4. On 23 December 2022, the complainant wrote to Cambridgeshire Constabulary and requested the following information:

“Please release all available information relating to the decision making process of the return of the 2 beagles to MBR [Marshall Bio Resources] acres”.

5. On 25 January 2023, Cambridgeshire Constabulary responded. It advised that the information was already available on its website<sup>1</sup> and was therefore exempt from disclosure under section 21 of FOIA.
6. The complainant requested an internal review on 25 January 2023. She stressed that she had requested **all** relevant information rather than just this public statement, saying that there would: “at least be an email chain before making a public statement”.
7. Cambridgeshire Constabulary provided an internal review on 19 April 2023. It said:

“...Cambridgeshire Constabulary can confirm that it holds the information in relation to your request...

The two dogs which were recovered by our officers following a break-in at MBR Acres in, Wyton, Cambridgeshire, were returned to the company.

We recognise the strong feelings this issue has raised in many people, however, we had no legal justification to retain the dogs and therefore were compelled to return them.

In response to concerns raised we contacted the Home Office, which confirmed that MBR Acres is a licensed establishment and that recent inspections of the site confirm that it is compliant with the requirements of the Animals (Scientific Procedures) Act 1986 and therefore its licence. The Home Office and its Animals in Science Regulation Unit (ASRU), which administers and enforces the 1986 Act, supported the return of the dogs for their wellbeing”.

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<sup>1</sup><https://www.cambs.police.uk/news/cambridgeshire/news/2022/december/mbr-acres-statement/>

## Scope of the case

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8. The complainant contacted the Commissioner on 24 May 2023 to complain about the way her request for information had been handled.
9. The complainant asked the Commissioner to consider the following:

“I made an FOI request to Cambridgeshire Constabulary, despite them stating they hold the information [sic] requested they have not supplied it, nor have they said they have applied an exemption”.
10. The Commissioner will consider this below.

## Reasons for decision

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### Section 1 – General right of access

11. When a public authority receives a request for information it has two obligations under section 1(1) of FOIA. Firstly, it must explicitly confirm or deny whether it holds the information in question. Secondly, if it does hold that information, it must either provide a copy to the requester or issue a refusal notice. If it receives a request that contains multiple elements, its response must be clear about which information it holds and which it does not.
12. The request is seeking **all** information held by Cambridgeshire Constabulary which relates to the statement on its website (see footnote 1 above). Cambridgeshire Constabulary initially cited section 21 of FOIA, saying that the requested information was in the public domain. The complainant responded by clearly stating that she wished to have copies of any information held which related to this statement.
13. In its internal review, Cambridgeshire Constabulary has confirmed holding information. However, it has failed to disclose it, and has instead just reiterated the action it had taken. It did not cite any exemptions.
14. It is not sufficient for Cambridgeshire Constabulary to simply state that it holds information and then provide a brief explanation about the actions it has taken regarding the particular incident. It must state whether it holds relevant information, which it presumably must as it contacted the Home Office, and then either provide that information or explain why it cannot. As it has not done so, it has not complied with section 1(1) of FOIA.
15. Cambridgeshire Constabulary is required to take the step at paragraph 3 of this notice.

## **Other matters**

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16. Although they do not form part of this notice the Commissioner wishes to highlight the following matters of concern.

### **Internal review – section 45**

17. There is no obligation under FOIA for a public authority to provide an internal review process. However, it is good practice to do so, and where an authority chooses to offer one, the code of practice established under section 45 of FOIA sets out, in general terms, the procedure that should be followed. The code states that reviews should be conducted promptly and within reasonable timescales.
18. The Commissioner has interpreted this to mean that internal reviews should take no longer than 20 working days in most cases, or 40 in exceptional circumstances.
19. The complainant asked for an internal review on 25 January 2023 and Cambridgeshire Constabulary provided the outcome of the internal review on 19 April 2023, 58 working days later.
20. The Commissioner considers that in failing to conduct an internal review within the timescales set out above, Cambridgeshire Constabulary has not acted in accordance with the section 45 code. Furthermore, in its internal review it has intimated that it does hold further information but has not either provided this information or explained why it is exempt from disclosure.
21. The Commissioner has made a separate record of these matters. This may form evidence in future enforcement action against Cambridgeshire Constabulary should evidence from other cases suggest that there are systemic issues within Cambridgeshire Constabulary.

## Right of appeal

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22. 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)

23. 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.

24. 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 .....**

**Carolyn Howes  
Senior Case Officer  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**