

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 June 2024

Public Authority: Chief Constable of Surrey Police
Address: PO Box 101
Guildford
Surrey
GU1 9PE

Decision (including any steps ordered)

1. The complainant has requested information regarding body worn video ('BWV') policy from Surrey Police.
2. The Commissioner's decision is that Surrey Police breached sections 10(1) and 17(1) by failing to confirm or deny holding the requested information and by failing to issue an appropriate refusal notice within the statutory time frame of 20 working days.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 18 February 2024, the complainant wrote to Surrey Police and requested information in the following terms:

"All information held on file for complaint [complaint reference redacted] and items referenced. This to include, but not limited to:

- Account from IO [name redacted].
- Surrey Police BWV policy.
- Copy of the NICE (body worn footage) activity log for Niche reference [reference redacted].

In addition:

- Full BWV footage taken from the [date removed] during the attendance of my home from the start of the recording until the end as held on any device / server / system that Surrey Police. Note Surrey PSD confirmed in a signed letter that the full recording was secured. Can you liaise with the PSD team as they seem to be aware of another recording. Or else confirm that the PSD team were incorrect and that the original provision of the edited 25 min version is all you have.
 - All PSD email or other recorded communication into the investigation from the period the complaint was first logged on 2nd Feb 2023 until the Outcome Letter
 - The document referred to by [name redacted] of Surrey PSD where he stated that the complaint [reference redacted] has been fully resolved on the letter of the 18th May as this has never been received.”
5. Surrey Police responded on 19 February 2024. It stated that the requested information could not be disclosed due to the “personal nature” of the request. A position which was upheld at internal review stage.

Scope of the case

6. The complainant contacted the Commissioner on 3 March 2024, to complain about the way their request for information had been handled.
7. The Commissioner advised the complainant that the majority of the request related to their own personal data and would therefore be exempt under section 40(1) of FOIA. The complainant accepted this position, but advised that they remained concerned with Surrey Police’s response to the part of their request which asked for “the Surrey Policy BWV policy”.
8. During the Commissioner’s investigation Surrey Police issued a further response on 7 June 2024. It advised the complainant that it was revising its position in relation to the BWV policy, explaining that this information wasn’t actually personal data. However, it still withheld this policy as the information was reasonably accessible and therefore exempt under section 21.
9. The Complainant accepted that the requested information was reasonably accessible, but was concerned that Surrey Police didn’t issue this further response until after the Commissioner’s intervention.

10. The Commission therefore considers whether Surrey Police response to the request was in line with the provisions of the FOIA.

Reasons for decision

11. Section 1(1) of 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."
12. Section 10(1) of FOIA states that a public authority must comply with section 1(1) promptly and "not later than the twentieth working day following the date of receipt"
 13. Section 17(1) obliges the authority to issue a refusal notice in regard to any exempt information within the same timescale, stating the exemptions being relied upon to withhold information.
 14. From the evidence provided to the Commissioner in this case, it is clear that Surrey Police did not deal with the request for information in accordance with FOIA. The Commissioner finds that Surrey Police breached sections 10(1) and 17(1) by failing to inform the complainant that they held the requested information and by failing to issue an appropriate refusal notice respectively within 20 working days.

Right of appeal

15. 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

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

16. 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.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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