

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 June 2019

Public Authority: Commissioner of the Metropolitan Police Service

Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant requested several files from the Metropolitan Police Service (MPS).
2. The Commissioner's decision is that the MPS has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the MPS to take the following step to ensure compliance with the legislation.
 - The MPS must issue a substantive response to the request in accordance with its obligations under the FOIA.
4. The MPS must take this step 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

5. On 12 November 2018, the complainant wrote to the MPS and requested information in the following terms:

*"I'd like to request under FOI the opening of these files still retained
MEPO 2/9800
MEPO 2/9843
MEPO 2/9844
MEPO 2/9847
MEPO 2/9860"*

6. The MPS acknowledged the request on 19 November 2018.
7. On 10 December 2018 the MPS wrote to the complainant to apologise for the delay. It explained that it would not be able to provide a substantive response within the statutory time for compliance.
8. The MPS wrote to the complainant again on 19 December 2018 and confirmed that, so far, it had located 3 out of the 5 requested files. However, it advised that it still needed to review the files before it could provide its substantive response.
9. The complainant requested an update from the MPS on 14 and 15 January 2019. The MPS responded on 15 and 16 January 2019, it suggested an alternative route to take the request forward so that it would be able to provide a substantive response sooner. However, the Commissioner notes that this response was not compliant with the FOIA.
10. To date, the MPS has failed to provide a substantive response to the request.

Scope of the case

11. The complainant contacted the Commissioner on 12 April 2019 to complain about the MPS's failure to respond to his information request.
12. On 8 May 2019 the Commissioner wrote to the MPS, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
13. Despite this intervention the MPS has failed to provide a substantive response to the complainant and he contacted the Commissioner on 23 May 2019 to request a decision notice.

14. The Commissioner has considered whether the MPS has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

15. Section 1(1) of the 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."

16. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt."*
17. From the evidence provided to the Commissioner in this case, it is clear that the MPS did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the MPS has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

Right of appeal

18. 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 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

19. 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.
20. 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

Ben Tomes
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF