

Reference: FPR0987673

Freedom of Information Act 2000 (Section 48) Practice Recommendation

Chief Constable of Humberside Police

26 October 2023

Summary

Section 48 of the Freedom of Information Act (FOIA) empowers the Information Commissioner (the Commissioner) to issue a practice recommendation where it appears to him that a public authority has failed to conform, specifically, to the FOIA Codes of Practice. These failures are addressed in the recommendations section below.

Humberside Police has had a consistently poor level of performance in terms of its response times to FOIA requests. This has been highlighted by the disproportionately high number of complaints about response times submitted to the Commissioner, as well as the number of decision notices he has had to issue Humberside Police to compel it to respond to outstanding requests. The backlog of overdue requests which Humberside Police currently has is also voluminous.

Following engagement by his staff with Humberside Police about the underlying reasons for these failings, the Commissioner has reached the view that Humberside Police's request handling practices do not conform to part 4 of the section 45 Freedom of Information Code of Practice, issued by the Cabinet Office in July 2018 (the Code).

Recommendations

Humberside Police has drawn up an action plan and is in the process of implementing several improvements to its information request handling processes. The Commissioner has therefore issued the following recommendations to support and enhance Humberside Police's plans to improve its information rights practices.

In considering these recommendations, we expect Humberside Police to ensure that it meets the requirements of all information rights legislation to which it is subject.

Area of Code	Non-conformity	Recommendation of steps to be taken
<p>Part 4 – time limits for responding to requests</p> <p>Section 4.1 of the Code highlights the “clear” requirement that public authorities respond to requests for information promptly, and within 20 working days of receipt in accordance with section 10(1) of FOIA.</p>	<p>On 20 September 2023, Humberside Police informed the Commissioner that it had a backlog of 343 overdue requests.</p>	<p>Humberside Police should ensure that requests for information are responded to in a timely manner.</p> <p>When chased to issue responses by the Commissioner’s Case Officers, Humberside Police should respond in a timely and appropriate manner.</p>
	<p>For the financial year 2022-2023, Humberside Police responded to 52% of FOIA requests within the statutory time limits.</p>	<p>Humberside Police should use the Commissioner's FOI self-assessment toolkit to improve its timeliness compliance.</p>
	<p>Humberside Police’s lowest level of compliance was between July and September 2022, where they only responded to 60 out of 272 requests within the statutory timeframe.</p>	<p>In accordance with part 8.5 of the Code, Humberside Police should publish its information access request statistics and make these easily accessible on its website. The statistics should include the number of information access requests that have not been processed and the number of completed requests where the processing took longer than 20 working days.</p>
	<p>From May 2023, 3 cases resulted in a section 10(1) FOIA decision notice requiring</p>	<p>Humberside Police’s request handling procedures should include provision for when a response is late or is likely to be late at any stage of the internal processes. It must be clear when and to who to escalate, who is responsible for taking action, the action they will need to take, and by when.</p>

	<p>Humberside Police to respond to the request submitted.</p> <p>Within its most recent financial quarter, Humberside Police responded to 39% of information requests within the statutory timeframe.</p>	<p>Humberside Police must ensure that its information rights training is sufficient to ensure that it has adequate coverage in place in order that request handling times do not fall below a compliant level in the event of the departure of key staff members.</p> <p>The Action Plan which Humberside Police is implementing should be published on its website by the end of November 2023 for full transparency about the improvements it is making.</p> <p>Humberside Police should ensure that the Action Plan incorporates appropriate processes being put in place to ensure both the backlog of overdue requests is cleared and 90% timeliness compliance is consistently achieved by the end of February 2024.</p>
--	---	--

Reasons for issuing this Practice Recommendation

The Commissioner is issuing a practice recommendation at this time rather than, for example, an Enforcement Notice because Humberside Police has engaged openly with his office about the procedural problems it has faced and already implemented an Action Plan with proactive measures being taken to resolve its backlog and compliance statistics. This has already resulted in an improved performance in recent months and the Commissioner welcomes these positive steps.

However, since July 2022, the Commissioner has received 35 complaints about Humberside Police. Most of these complaints included a section 10 breach as the request had not been responded to within the statutory time limit. A practice recommendation has been deemed appropriate to issue due to this increased volume of complaints being received by the

Reference: FPR0987673

Commissioner. Of greatest concern to the Commissioner is the backlog of aged requests which remain open with Humberside Police.

Age profile of overdue requests as of 20 September 2023	FOI / EIR
Number of requests open over a month old	343
Number of requests open over three months old	216
Number of requests open over six months old	113
Number of requests open over nine months old	103
Number of requests open over a year old	99
Oldest open request	27th May 2022

This practice recommendation formalises the Commissioner’s concerns and holds Humberside Police accountable for improving its freedom of information request handling practices and, in turn, increase public confidence and trust in its information rights practices.

Failure to comply

A practice recommendation cannot be directly enforced by the Commissioner. However, failure to comply with a practice recommendation may lead to a failure to comply with FOIA, which in turn may result in the issuing of an enforcement notice.

Reference: FPR0987673

Further, a failure to take account of a practice recommendation may lead in some circumstances to an adverse comment in a report to Parliament by the Commissioner.

Humberside Police should write to the Commissioner by the end of February 2024 to confirm that it has complied with its recommendations and how it has achieved this.

The Commissioner will have regard to this practice recommendation in his handling of subsequent cases involving Humberside Police.