

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 November 2021

Public Authority: Chief Constable of Essex Police
Address: Essex Police Headquarters
Chelmsford
CM2 6DA

Decision (including any steps ordered)

1. The complainant requested information from the Chief Constable of Essex Police ("Essex Police") relating to employees training on mental health and Essex Police's powers under the Mental Health Act 1983 (MHA). By the date of this notice Essex Police had not issued a substantive response to this request.
2. The Commissioner's decision is that Essex Police 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 Essex Police to take the following step to ensure compliance with the legislation.
 - Essex Police must provide a substantive response to the request in accordance with its obligations under the FOIA.
4. Essex Police 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 25 June 2021, the complainant wrote to Essex Police and requested information in the following terms:

"My request under FOI is:

- 1. Can I obtain copies of any PowerPoints and supporting documents regarding the recent Mental Health training given to Essex Police Employees and Officers.*
 - 2. Any Essex Police policies regarding Mental Health. This includes policies for staff, officers and regarding the treatment of prisoners and suspects etc suspected of having Mental Health.*
 - 3. Policies regarding the use of Mental Health powers such as S.135 MHA and S.136 MHA and other relevant powers (This can form part of Question 2).*
 - 4. Over the past 5 years how many times has S.135 MHA powers been used? Can this be broken down by year?*
 - 5. Over the past 5 years how many times has S.136 MHA powers been used? Can this be broken down by year?"*
6. Essex Police wrote to the complainant on 5 August 2021 to acknowledge the request.
7. On 16 August 2021, as the complainant had not received a response to his request, he wrote to Essex Police and requested an internal review.
8. Essex Police wrote to the complainant on 6 September 2021 to acknowledge his request for an internal review. By the date of this notice, Essex Police had not provided the complainant with a substantive response to his request.

Scope of the case

9. The complainant contacted the Commissioner on 28 October 2021 to complain about Essex Police's failure to respond to their request.
10. The Commissioner has considered whether Essex Police has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

11. 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."

12. 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"*.

13. On 2 November 2021 the Commissioner wrote to Essex Police, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.

14. Despite this intervention, Essex Police has failed to respond to the complainant.

15. From the evidence provided to the Commissioner in this case, it is clear that Essex Police did not deal with the request for information in accordance with the FOIA. The Commissioner finds that Essex Police 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

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

Website: 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

Michael Lea
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