Freedom of Information Act 2000 (FOIA)

Decision notice

Date: **17 June 2021**

Public Authority: **Chief Constable of Merseyside Police**
Address: **Police Headquarters**
Canning Place
Liverpool
Merseyside
L1 8JX

Decision (including any steps ordered)

1. The complainant has requested information about a campaign Merseyside Police ran to encourage people to report hate crime.

2. The Commissioner's decision is that Merseyside Police failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.

3. The Commissioner requires Merseyside Police to take the following steps to ensure compliance with the legislation.

    - Issue a substantive response, under the FOIA, to the request.

4. Merseyside Police 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 22 February 2021, the complainant wrote to Merseyside Police via the 'WhatDoTheyKnow?' website and requested information in the following terms:

> "*Please provide me with the following information:*
>
> *1. Internal correspondence (including correspondence to/from the Police and Crime Commissioner or CPS) relating to the term "Being offensive is an offence" and the #TeamBeb campaign events involving Merseyside Police that took place recently and the response to it.*
>
> *2. The internal plans, preparations and briefing notes prepared in advance of the #TeamBeb campaign events involving Merseyside Police.*
>
> *Public authorities have a duty to provide advice and assistance to individuals making requests for information under FOIA. Please provide me advice and assistance if the request is anyway unclear, or if it exceeds the cost limit in Section 12 of the Act*."

6. Merseyside Police acknowledged the request on 22 February 2021 but failed to provide a substantive response.

7. The complainant sent chasers on 25 March 2021 and 1 April 2021, all of which were acknowledged. However he did not receive a response to the request.

Scope of the case

8. The complainant contacted the Commissioner on 1 April 2021 to complain about the failure, by Merseyside Police, to respond to the request. He informed Merseyside Police that he had done this.

9. On 15 April 2021, Merseyside Police contacted the Commissioner saying that it was aware of the complaint and that it was in the process of responding to the complainant. It said it would do so by close of business on 16 April 2021. However, it did not do so.

10. The complainant sent further chasers to Merseyside Police dated 21 April 2021 and 14 June 2021. Each was acknowledged, but Merseyside Police did not provide a response to the request.

11. The complainant contacted the Commissioner on 14 June 2021 to request a decision notice considering Merseyside Police's compliance with the FOIA.

12. The scope of this notice and the following analysis is to consider whether Merseyside Police has complied with section 10 of the FOIA.

Reasons for decision

13. 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.*

14. Section 8(1) of the FOIA states:

> *In this Act any reference to a "request for information" is a reference to such a request which –*
>
> *(a) is in writing,*
> *(b) states the name of the applicant and an address for correspondence, and*
> *(c) describes the information requested.*

15. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

16. Section 10 of the FOIA states that responses to requests made under the FOIA must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt*."

17. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, Merseyside Police has breached section 10 of the FOIA.

18. Merseyside Police must now take the action at paragraph 3, above.

Right of appeal

19. 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

20. 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.

21. 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 .....

Samantha Bracegirdle
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Cheshire
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