

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 May 2023

Public Authority: The Chief Constable of Gloucestershire
Constabulary

Address: Police HQ
1 Waterwells Drive
Waterwells
Quedgeley
GL2 2AN

Decision (including any steps ordered)

1. The complainant requested information from the Chief Constable of Gloucestershire Constabulary ("Gloucestershire Constabulary").
2. The Commissioner's decision is that on the balance of probabilities, Gloucestershire Constabulary has disclosed all the information it holds within the scope of part 5 of the request.
3. However, he finds that Gloucestershire Constabulary breached section 10(1) of FOIA by failing to provide a valid response to the request within the statutory time frame of 20 working days.
4. The Commissioner does not require Gloucestershire Constabulary to take any steps.

Request and response

5. The complainant made the following information request to Gloucestershire Constabulary on 18 October 2022:

"I should be grateful if you would respond the following queries under the Freedom of Information Act:

 1. Fully set out the 'threshold of criminality' that Gloucestershire Police apply.
 2. Give the threshold for the investigation of an offence to be 'not in the public interest'.
 3. If a complaint is 'not upheld' does this mean it is not recorded as a complaint against Gloucestershire Police?
 4. If Gloucestershire Police 'disapply' an appeal does this mean the appeal is not recorded?
 5. How many Judicial Reviews have Gloucestershire Police been subjected to and what number have been successfully defended?
6. Gloucestershire Constabulary responded on 11 January 2023. In response to parts 1 and 2 of the request, it provided the complainant with a link to where information within the scope of parts 1 and 2 of the request could be located on the Crown Prosecution Service's website.
7. In response to parts 3 and 4 of the request, Gloucestershire Constabulary informed the complainant that the term 'not upheld' is not used in relation to complaints and that the term 'disapply' is no longer used in relation to complaints. Gloucestershire Constabulary denied holding information within the scope of part 5 of the request.
8. On 23 January 2023, the complainant requested an internal review. Following an internal review Gloucestershire Constabulary maintained its position.
9. Gloucestershire Constabulary provided the complainant with a further response to the request on 27 April 2023 in which it provided the complainant with information within the scope of part 5 of the request.

Reasons for decision

10. This reasoning covers whether Gloucestershire Constabulary holds further information within the scope of part 5 of the request.
11. Gloucestershire Constabulary's position is that it has provided the complainant with the information it holds within the scope of part 5 of the request. In its submissions to the Commissioner, Gloucestershire Constabulary stated that information relating to judicial reviews would be held by its legal department.
12. Gloucestershire Constabulary explained that when its legal department initially searched for information held within the scope of part 5 of the request, it only searched its records from the last 5 years. However, its legal department has now conducted a search of all records held for information within the scope of part 5 of the request.
13. Gloucestershire Constabulary explained that its legal department has conducted a search of both its current and previous case management systems using the search term 'judicial review' for the information within the scope of part 5 of the request. This search identified 10 judicial review cases where Gloucestershire Constabulary were either the defendant or an interested party and of those 10 cases, 1 was successful. This information has been disclosed to the complainant.
14. The Commissioner considers that Gloucestershire Constabulary has carried out adequate searches for the information requested in part 5 of the request. Therefore, the Commissioner's decision is that on the balance of probabilities, Gloucestershire Constabulary has disclosed all the information it holds within the scope of part 5 of the request.

Procedural matters

15. 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."

16. Section 10(1) of 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 Gloucestershire Constabulary did not deal with the request for information in accordance with FOIA. The Commissioner finds that Gloucestershire Constabulary breached section 10(1) of the FOIA by failing to respond to the request within 20 working days.

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: 0203 936 8963

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

Victoria James
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF