

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 March 2024

Public Authority: Chief Constable South Yorkshire Police
Address: South Yorkshire Police Headquarters
Carbrook House
Carbrook Hall Road
Sheffield
S9 2EH

Decision (including any steps ordered)

1. The complainant has requested information about the speed enforcement process on a particular section of motorway. South Yorkshire Police ("SYP") stated that it does not hold the requested information.
2. The Commissioner's decision is that, on the balance of probabilities, SYP is correct when it says that it does not hold the requested information.
3. The Commissioner does not require SYP to take any further steps.

Request and response

4. On 8 May 2023, the complainant wrote to SYP and requested information in the following terms:

"The M1 is a 70mph National Speed Limit Motorway, and J30 to J31 Northbound is a section of "Smart" Motorway.

Provide your flow chart that depicts South Yorkshire Police's involvement in the speed enforcement process, and how that attaches to that of your partners National Highways and South Yorkshire Safety Camera Partnership on the "smart" motorway section J30-J31. This

should therefore make it clear to we the public the complete enforcement process and lines of information and responsibility.”

5. SYP responded on 13 May 2023. It stated that it does not hold the requested information, and advised the complainant to direct their request to South Yorkshire Safety Cameras.
6. Following an internal review SYP wrote to the complainant on 19 December 2023. It maintained its original position, that being that it does not hold the requested information. However, it conceded that it should not have advised the complainant to direct their request to South Yorkshire Safety Cameras, which is in fact a part of SYP.

Reasons for decision

Section 1 – general right of access

7. Section 1 of FOIA provides that any person making a request to a public authority is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request, and if that is the case, to have that information communicated to them.
8. In scenarios where a dispute arises over whether relevant recorded information is held by the public authority at the time of the request, the Commissioner – following the lead of a number of First-tier Tribunal decisions – applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is more likely than not that the public authority holds the information described by the request.
9. FOIA provides a right of access to information which is held by a public authority in recorded form at the time when it receives the request. This does not extend to the right to ask questions, or to seek explanations, opinions or clarifications, unless those explanations, etc. are already held by the public authority in recorded form. Essentially, public authorities are not obliged to create new recorded information in order to respond to a request.

The complainant's position

10. The complainant considers that SYP must hold the requested information as it appears to be the prosecuting authority for offences occurring on the particular stretch of motorway, therefore it would need access to, and control of, all information that would be required to progress the enforcement of alleged speeding offences before prosecution through to the courts. Therefore, ensuring SYP's verification of such evidence is of

the highest possible integrity to ensure that conviction beyond the reasonable doubt threshold required by law before being taken to court.

11. The complainant argued that during a court hearing relating to an alleged offence which occurred on the particular stretch of motorway, two witnesses put forward by the CPS identified themselves as employees of SYP within the regime set up to administer the enforcement and prosecution process. The complainant is therefore of the view that SYP must have overall control of the regime established to administer and maintain the speed cameras and initiate enforcement and prosecution.
12. The complainant backed up their assertion that SYP holds the requested information by setting out that a partnership cannot effectively work without each partner knowing each others' function, duties and responsibilities. Therefore each partner should be privy to the requested information, no matter what their position may be within the partnership arrangement. They outlined that their understanding is that the partnership in this matter will involve SYP and National Highways, as well as the entity responsible for operating the speed cameras.

SYP's position

13. SYP confirmed that South Yorkshire Safety Cameras is part of SYP, and is also an active member of South Yorkshire Safer Roads Partnership (SYSRP). National Highways is also a member of SYSRP, however SYP and National Highways do not hold, or have direct access to, each others' recorded information.
14. SYP explained that National Highways are responsible for the equipment needed to enforce the mandatory (variable) speed limits and Red X signals, which are installed, configured and maintained in accordance with Home Office type approval, and comply with all legislative requirements. National Highways is also responsible for maintaining records which demonstrate the integrity of an evidential trail to support enforcement activity, and for setting and subsequent removal of variable speed limits.
15. SYP further explained that its own responsibility, as the Enforcement Authority, is for the processing of offences detected by the Hadecs camera system – the particular type of speed enforcement camera fitted onto motorway gantries.
16. However, SYP made clear that it does not hold a document whereby the speed enforcement process described in the request is set out in a flowchart.

The Commissioner's conclusion

17. The Commissioner has considered both parties' positions. He accepts the complainant's assertion that organisations working together on a particular matter must have an understanding of each other roles and responsibilities in order for the partnership to function, and it is clear from SYP's explanation that it does in fact have such an understanding of its own and other organisations roles in the speed enforcement and prosecution process.
18. However, the Commissioner is satisfied that whilst SYP does have that understanding, it does not hold a document which sets out all of the roles and responsibilities of each organisation involved in the enforcement and prosecution process, in the form of a flow chart. Nor is it obliged to create such a document in order to satisfy the request.
19. The Commissioner concludes that, on the balance of probabilities, SYP is correct when it says that it does not hold a flow chart which depicts the speed enforcement process as described by the request. Therefore the Commissioner is satisfied that SYP has complied with the requirements of section 1(1) of FOIA.

Other matters

20. The Commissioner would like to remind SYP that whilst internal reviews are not a requirement under FOIA, they are considered to be good practice, as set out in the section 45 Code of Practice.
21. In this case, SYP did not complete the internal review until more than 7 months had passed following the complainant's request for the review, therefore demonstrating poor practice.
22. The Commissioner keeps a record of incidents such as these for monitoring and enforcement purposes.

Right of appeal

23. 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

24. 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.
25. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Michael Lea
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF