

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 November 2024

Public Authority: Chief Constable of Essex Police
Address: PO Box 2
Springfield Chelmsford
Essex
CM2 6DAX

Decision (including any steps ordered)

1. The complainant requested information from Essex Police (the public authority). By the date of this notice the public authority had not issued a substantive response to this request.
2. The Commissioner's decision is that the public authority has failed to complete its deliberations on the balance of the public interest within a reasonable time and has therefore breached section 17(3) of FOIA.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation.
 - Having confirmed whether or not information is held within the scope of the request: either disclose the requested information or, to the extent that information is to be withheld, issue a refusal notice in accordance with the requirements of section 17 of the FOIA.¹
4. The public authority must take this step within 30 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

[¹ The Commissioner expects the public authority to take appropriate precautions to protect any personal data when disclosing information in a spreadsheet or similar format; [Information Commissioner's Office - Advisory note to public authorities | ICO](#)]

pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

Request and response

5. On 7 August 2024, the complainant made the following request for information to the public authority:
 - “1. Please may you provide the name of the record that would be created (e.g. crime report/incident report/contact record?) and if this would be done by the Contact Centre or another Team? As it would be assessed from the content of the email that an officer does not need to attend, I know a STORM record would not be generated.
 2. My understanding is that it would not be recorded as a 'Road Related Offence', unless the points to prove were met (i.e.. driver stopped, tested positive, arrested), so what would it be recorded as/under? Dyfed Powys has said: “T-Other”
 3. Does this record generate a reference and if so, please provide its format. I.e. A STORM reference is in the format of FF-DDMMYYYY-NN (Force, Date, Reference); e.g. NC-04072024-123. An ATHENA reference is the format of FF/NNNNN/YY (Force, Reference, Year) e.g. 36/123/24 (36 being Norfolk’s specific national identifier).
 4. If requested by the member of public who sent the email, would this reference be provided to them?
 5. I understand the record will then prompt the creation of an Intelligence Report in your records management system – ATHENA. This process is by manual input currently and Officers will consider whether there is sufficient information to submit an intelligence log. Please provide the name of the Team who would create the Intelligence Report and from when they are in receipt of the information contained in the email, the timescale in which they should create it?
 6. If there is insufficient details to submit a log, an officer may call or contact the source to obtain further information. The intelligence Report creation requires details, such as the source, submission details, intelligence details (including source evaluation and intelligence assessment) and dissemination risk assessment.
 7. The intelligence is graded as either High (risk of harm,) Medium (intelligence requirement/ tactical) or Low (other information.)

This is graded by the inputting person initially but may change following review. At Suffolk, it is the Central Intelligence Bureau and it is the Intelligence Processing Unit at West Mercia. At Essex, please provide the name of the Team who carry out this role of reviewing intelligence reports submitted to them and from when this Team receives an intelligence report graded as High/Medium/Low, the timescale in which they should review it?

8. A number of actions are then available depending on the intelligence, which include dissemination to individual officers or staff, dissemination to policing area, police service, partner agencies, police briefing entries, creation of information markers on PNC (Police National Computer) etc. Intelligence can also be linked to individual person, car, location records within Athena. Please advise if adding the individual's vehicle registration plate to the Hotlist is one of the available actions?
9. Please advise which Team at Essex would determine the requirement to add to PNC and/or ANPR and would this usually be carried out by the same Officer who created the Intelligence Report and done at the same time?
10. Please provide the Job Title of the person(s) who sent the answers in response to this request to the FOI Team."
6. On 2 September 2024, the public authority wrote to the complainant to explain that it held information relevant to the complainant's request, but that it would need to extend the time taken to complete its public interest test considerations in respect of an exemption under section 31 of FOIA.

Reasons for decision

7. 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."
8. 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".

9. Section 17(3) of FOIA states that where a public authority is relying on a qualified exemption, it can have a "reasonable" extension of time to consider the public interest in maintaining the exemption or disclosing the information.
10. FOIA does not define how long a reasonable time is. The section 45 Code of Practice on request handling states that "it is best practice for an extension to be for no more than a further 20 working days".² This means that the total time spent responding to a request should not exceed 40 working days unless there are exceptional circumstances.
11. On 22 October 2024 the Commissioner wrote to the public authority, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. To date, a substantive response has still not been provided.
12. In this case, the total time taken by the public authority has exceeded 40 working days. The Commissioner does not consider there to be any exceptional circumstances and finds that, by failing to complete its deliberations on the public interest within a reasonable time frame, the public authority has not complied with section 17(3).
13. The public authority is now required to finalise its public interest considerations under section 17(3) of FOIA and respond to the complainant.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf

Right of appeal

14. 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

15. 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.
16. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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