

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 November 2024

Public Authority: Chief Constable of Humberside Police

Address: Police Headquarters
Priory Road
Hull
HU5 5SF

Decision (including any steps ordered)

1. The complainant has requested all policies and procedures relating to “unsatisfactory delivery” of duties from Humberside Police (the Police). The Police advised that it did not hold any information within the scope of the request.
2. The Commissioner’s decision is that, the Police failed to seek clarification of the request under section 1(3) of FOIA and has therefore breached section 16(1) of FOIA.
3. The Commissioner also finds that the Police breached section 10(1) and section 1(1)(a).
4. The Commissioner requires the Police to take the following steps to ensure compliance with the legislation.
 - Comply with section 16 of the FOIA by seeking clarification of the complainant’s request. Once clarification has been received, the Police must respond to the complainant in accordance with the FOIA.
5. The Police must take these steps 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 pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

6. On 11 March 2024, the complainant wrote to the Police and requested information in the following terms:

“Under the freedom of information act 2000, I request all policies and procedures (including all background information) with regard to unsatisfactory delivery of duties and services from 01/01/20 to the current date.”
7. The Police responded on 24 May 2024. It advised the complainant that for the management of unsatisfactory performance of Police Officers, it follows the formal procedures as documented in the Police Performance Regulations 2020 and the related Home Office Guidance. It added that for student Police Officers in their probationary period, the procedures documented in Regulation 13 of the Police Regulations 2003 are followed.
8. Following an internal review the Police wrote to the complainant on 25 June 2024. It stated that it had failed to confirm or deny whether the requested information was held originally but maintained relevant information had been provided.

Scope of the case

9. The complainant contacted the Commissioner on 25 June 2024 to complain about the way their request for information had been handled.
10. The Police have since advised the Commissioner that it does not hold information within the scope of the request. It explained that the links provided to the complainant during its original response were provided as a form of advice and assistance. The links provided referred the complainant to external policies and procedures, which the Police confirmed it follows.
11. The Commissioner, having considered the particular circumstances of this case, considers it appropriate to decide whether the Police has complied with its responsibilities under section 16 of FOIA

Reasons for decision

Section 16 – Advice and assistance

12. Section 16 of the FOIA states: (1)

“It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.”

13. Section 1(3) of FOIA states:

“Where a public authority –

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information”.

14. When a public authority receives an unclear or ambiguous request, it has a duty under section 16 to provide advice and assistance and it must go back to the requester under section 1(3) of FOIA to ask for clarification.

15. Under section 1(3) of FOIA, once the public authority has informed the requester that it requires further clarification, it will not be under any further obligation to respond until that clarification has been provided.

16. The Commissioner’s guidance on interpreting and clarifying requests¹ sets out that, where a request does not have a single objective reading, a public authority is obliged to seek clarification from the requester. It should not proceed with responding to the request until that clarification has been received.

17. In the circumstances of this case, the Commissioner notes that the complainant’s uses of the wording “unsatisfactory delivery of duties and services” could lead to multiple objective readings. For example, would the scope of the request include documents which relate to performance management, misconduct issues or simply just information which relates to the discipline of staff. It would be to the benefit of both parties if this ambiguity was resolved. A member of the public cannot reasonably be expected to understand how a public authority may label certain classes of information.

¹ [Interpreting and clarifying requests under the Freedom of Information Act 2000 \(FOIA\) and the Environmental Information Regulations 2004 \(EIR\) | ICO](#)

18. Based on the above, the Commissioner finds that the Police have failed to comply with the requirements stipulated in section 16(1) of FOIA. The Council is now required to contact the complainant and seek clarification about their request.

Procedural matters

19. Section 1(1) of FOIA:

“(1) 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.”

20. Section 10(1) requires a public authority to comply with the requirements of section 1(1) within 20 working days.
21. In this case, the complainant submitted their request for information on 11 March 2024. The Police failed to respond within 20 working days and failed to confirm whether the information was held within 20 working days.
22. The Commissioner therefore finds that the Police breached section 10(1) and section 1(1)(a).

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.

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