ico.
Information Commissioner's Office

Freedom of Information Act 2000 (FOIA)
Decision notice

Date: **17 May 2016**

Public Authority: **Chief Constable of Greater Manchester Police**
Address: **Lawton Street**
                             Openshaw
                             Manchester
                             M11 2NS

Decision (including any steps ordered)

1.   The complainant has requested information relating to applications for exemption from Notices of Intended Prosecution ("NIPS") issued against emergency response vehicles for traffic violations. Greater Manchester Police ("the Constabulary") has not responded to the request.

2.   The Information Commissioner's decision is that the Constabulary has breached sections 1(1) and 10(1) of the FOIA in that it has failed to provide a response to the request within the statutory time for compliance.

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

     • Issue a response to the request under the FOIA by either complying with section 1(1) or issuing a valid refusal notice.

4.   The Constabulary 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 Act and may be dealt with as a contempt of court.

Request and response

5.   On 31 October 2015, the complainant wrote to the Constabulary and requested information in the following terms:

"Please could you advise me:

(a) How many requests are received for emergency use dispensations annually by each of the three emergency services (Police, Fire and Ambulance)?

(b) Who makes decisions as to whether such requests are EHCR and policy compliant?

(c) What training the decision maker receives to assist this process?

(d) What approximate rank or pay grade is the decision maker?

(e) How many decision makers there are?

(f) If there is an appeals process?

(g) Do either of the other Emergency services have devolved ability to dispense NIPs without Police input?

(h) Does the system work any differently for internal Police alleged offenders and if so how?"

6. The Constabulary acknowledged receipt of the request the same day. The complainant wrote to the Constabulary again on 2 November 2015, to clarify the meaning of his request. However, he heard nothing further from the Constabulary until 29 March 2016, when he received an email which said:

    "Regrettably, due to high volumes of requests and constraints on staff resources, GMP currently has a backlog of Freedom of Information requests. We have therefore been unable to process your request within 20 working days. As this request is dated 31.10.15, we would be grateful if you could please advise whether you would still like this request to be processed or whether the information is no longer required by sending a response to this email.

    If you do still require the information we will complete the request as soon as possible, however we cannot provide a specific time frame."

7. The complainant emailed back the same day, confirming that he still required the information. However, at the date of this decision notice he had still not received a response to the request.

Scope of the case

8. The complainant contacted the Commissioner on 29 March 2016 to complain about the way his request for information had been handled.

9. The Commissioner wrote to the Constabulary on 11 April 2016 to remind it of its obligations in respect of such requests and asking it to respond to the complainant within ten working days. He asked the Constabulary to forward him a copy of anything it sent to the complainant.

10. The Commissioner did not receive a response from the Constabulary. The complainant has since confirmed to the Commissioner that he has received neither a response to the request nor a refusal notice from the Constabulary.

11. The Commissioner has therefore considered the Constabulary's compliance with section 1(1) and 10(1) of the FOIA.

Reasons for decision

12. Section 1(1) of FOIA states that:

    "1(1) Any person making a request 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."

13. Section 10(1) of the FOIA states that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.

14. The Constabulary acknowledged receipt of the request on 31 October 2015. The twentieth working day after this was 27 November 2015. As the Constabulary did not issue a response by that date – and has still not done so - it has breached section 1(1) and 10(1) of the FOIA.

Other matters

15. As well as issuing this notice, the Commissioner has made a separate record of the failure by the Constabulary to respond to the complainant's request. This issue may be revisited should evidence from other cases suggest that this is necessary.

Right of appeal

16. 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@hmcts.gsi.gov.uk
>   Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. 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.

18. 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
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF