

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 January 2019

Public Authority: Chief Constable of Sussex Police
Address: Sussex Police Headquarters
Malling House
Lewes
Sussex
BN7 2DZ

Decision (including any steps ordered)

1. The complainant has requested year-on-year staffing information, broken down by rank and gender, from Sussex Police. Sussex Police disclosed some information, but failed to respond to the request in full.
2. The Commissioner's decision is that Sussex Police breached section 10 by failing to provide a complete response in respect of the request.
3. The Commissioner requires Sussex Police to take the following steps to ensure compliance with the legislation.
 - Issue a fresh response to the request, confirming or denying whether the information requested at parts (2) – (5), broken down by rank, year and (for parts (2), (3) and (5) only) gender, is held. If it is held, disclose the information or issue a refusal notice which complies with section 17 of the FOIA.
4. Sussex Police 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 12 May 2018, the complainant wrote to Sussex Police and requested information in the following terms:

"Would you please provide, for each year from 2014 to the latest year available:

1) the number of police officers by rank and gender in service as at 1 April each year (or other convenient date in the year)

2) the number of officers promoted in each year to each of the next ranks by gender

3) in each year the average length of service of officers at promotion to each of the next ranks by gender.

4) in each year the average length of service of officers at promotion to each of the next ranks

5) in each year the average length of service of officers at retirement by rank and gender.

6) the number of officers recruited in each year".

6. Sussex Police acknowledged receipt of the request on 22 May 2018. It responded to the request on 27 July 2018. It answered part (6) of the request. For parts (1), (2), (3) and (5) of the request, which asked for information by year, rank and gender, the information was broken down by year and gender only. Part (4) of the request, which asked for information to be broken down by rank and year, was broken down by year only.
7. The complainant contacted Sussex Police on 31 July 2018, clarifying that the request called for the information to be further broken down. Sussex Police responded the same day, providing the information at part (1) broken down by year, rank and gender. On 2 August 2018 the complainant told Sussex Police it should have provided a similar breakdown in respect of parts (2) - (5) of his request, adding that it should let him know if the intended meaning of the request remained unclear.
8. Sussex Police responded the same day, explaining that it had interpreted the request as only requiring information to be broken down for part (1). It said that a further response would be issued as soon as possible.

9. The complainant heard nothing further from Sussex Police, despite chasing a response on 21 August 2018, 12 September 2018, 20 September 2018 and 22 November 2018.

Scope of the case

10. The complainant contacted the Commissioner on 18 September 2018 to complain about Sussex Police's failure to respond fully to his request within the statutory time for compliance.

Reasons for decision

Section 1 – general right of access

Section 10 - time for compliance

11. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
12. Section 10(1) of the FOIA states that on receipt of a request for information a public authority should respond to the applicant within 20 working days.
13. The complainant has told Sussex Police that parts (1) - (5) of the request seek information broken down by gender, rank and year.
14. Sussex Police has answered part (1) in that format. The Commissioner considers that, by its wording, part (4) only calls for the information to be broken down by year and rank, which has not been done. Parts (2), (3) and (5) should be considered as requests for information to be broken down by year, rank and gender. This, too, has not been done.
15. From the information provided to the Commissioner in this case it is evident that Sussex Police did not deal with the request for information of 12 May 2018 in accordance with the FOIA, as by failing to fully respond to points (2) - (5) of the request it breached sections 1(1) and 10(1) of the FOIA. In addition, Sussex Police breached sections 1(1) and 10(1) of the FOIA by failing to fully respond to point (1) of the request within the statutory time for compliance.
16. 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

17. 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

18. 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.
19. 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
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Cheshire
SK9 5AF