

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 September 2019

Public Authority: Chief Constable of Sussex Police

Address: Sussex Police Headquarters
Malling House
Church Lane
Lewes
East Sussex
BN7 2DZ

Decision (including any steps ordered)

1. The complainant requested information from Sussex Police about their policy and procedure for closing investigations.
2. The Commissioner's decision is that Sussex Police has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires Sussex Police to take the following step to ensure compliance with the legislation.
 - Sussex Police must provide a substantive response to the request in accordance with its obligations under the FOIA.
4. Sussex Police must take this step 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 25 May 2019, the complainant wrote to Sussex Police and requested information in the following terms:

"Please can you provide answers to the following questions regarding Sussex Police policy and procedure.

- 1. When Sussex Police make a decision to 'close an investigation' what methods of investigation must have had to of been tried and exhausted prior to that decision to 'close an investigation'?*
 - 2. What is the criterion which has had to be met for Sussex Police to decide to 'close an investigation'?*
 - 3. When Sussex Police decide to 'close an investigation' and state they are "not able to investigate any further due to lack of information/evidence", the lack of what kind of evidence/information would lead to the decision? The presence of what kind of evidence/information would be needed for an investigation to take place or for an investigation to continue?*
 - 4. Would it ever be the policy or procedure of Sussex Police to 'close an investigation' on the grounds of "lack of evidence" before processing forensics and fingerprints of a suspect/s gathered by 'SOCO' at the scene of the crime?*
 - 5. Would it ever be the policy or procedure of Sussex Police to 'close an investigation' on the grounds of "lack of evidence/information" before speaking to or taking statements from witnesses of the crime taking place?*
 - 6. Would it ever be the policy or procedure of Sussex Police to 'close an investigation' before interviewing identified suspects?*
 - 7. What threshold has to be met in order for Sussex Police to consider a person a suspect? For example, if an individual's fingerprints were found at the scene of a burglary with there being no legitimate reason for those individual's fingerprints being present within the property/building, would that be sufficient grounds to consider that individual as a suspect? In that same scenario, would the presence of that individual's fingerprints be sufficient to interview that individual?"*
6. Sussex Police did not acknowledge the request. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 21 July 2019 to complain about Sussex Police's failure to respond to their request.
8. The Commissioner has considered whether Sussex Police has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

9. Section 1(1) of the 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."

10. Section 10(1) of the 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"*.
11. On 12 August 2019 the Commissioner wrote to Sussex Police, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
12. Despite this intervention Sussex Police has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that Sussex Police did not deal with the request for information in accordance with the FOIA. The Commissioner finds that Sussex Police has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

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: 0300 1234504

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.

Signed

Ben Tomes
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SK9 5AF