

Freedom of Information Act 2000 (FOIA) Decision Notice

Date: 11 November 2020

Public Authority: The Police, Fire and Crime Commissioner for
Staffordshire
Address: Ground Floor, Block 9
Weston Road
Stafford
ST18 0YY

Decision (including any steps ordered)

1. The complainant submitted two requests for information to the Police, Fire and Crime Commissioner for Staffordshire. The Police, Fire and Crime Commissioner took four months to issue substantive responses to these requests. Accordingly the Information Commissioner's decision is that the Police, Fire and Crime Commissioner failed to comply with section 10(1) of FOIA. Since the Police, Fire and Crime Commissioner has now responded the Information Commissioner does not require any steps to be taken.

Request and response

2. On 15 June 2020 the complainant submitted two requests for information to the Police, Fire and Crime Commissioner. One request related to the post of Mental Health Co-ordinator (MHC):

1: Please provide information that clearly outlines the arrangements in the creation of the Post of MHC specifically;

a) The role played by the Commissioner (if any) in the creation of the MHC Post?

b) If the Commissioner played no part in the creation of this post who was responsible for the post creation?

c) What were the intended functions and or duties of the MHC; the selection process, and medical or other qualifications required to perform those duties?

- d) The dates the post was created and ended?*
 - e) The funding arrangements for the salary of the MHC and or financing of or for a contractual service?*
 - f) The cost of running the post from creation date, to termination date?*
 - g) Who within the OPCC, Staffordshire Police or other body acted as the immediate supervising authority for the MHC?*
 - h) The post of the MHC appears to be a 'Civilian' position; what legislation and or powers were used in the process of obtaining HSPMD from the NHS?*
 - i) It appears the Post of the MHC was operating with an email address provided by 'Boeing' that belonged to the OPCC; who controlled or provided the 'Server' for this email address?*
 - j) Did the current post holder designated; 'Vulnerability Manager,' ever hold the post of MHC, if so, then please provide the dates;*
3. The second request related to the funding and operation of a Community Triage Team:
- 1: What is meant by the term 'Funded;' was it a contract of or for service; were the team employed by the OPCC and or Staffordshire Police; or were the 'Team' self employed or employed by private company if so please identify that company?*
 - 2: Between what dates did the OPCC 'Fund' the team and what was the cost to the 'Public Purse'?*
 - 3: Given they operated from or were based at Lichfield Police Station, but being financed by the OPCC; who was the immediate supervising authority; the Police, NHS or OPCC?*
 - 4: What legal status, authority or legal frame work were these individuals operating under and what was the point of access within the NHS, used to request NHS Data or Medical Records;*
 - 5: Where was the data stored and who was and currently is responsible for any data obtained?*
4. The complainant contacted the Police, Fire and Crime Commissioner on 18 August 2020 as he had not received a response to either request.

Scope of the case

5. The complainant contacted the Information Commissioner on 26 July 2020 to complain that he had not received a response to his requests. The complainant confirmed that the Police, Fire and Crime Commissioner had received his requests because it had made reference to them in other correspondence to him.
6. The Information Commissioner wrote to the Police, Fire and Crime Commissioner on 3 September 2020 to remind it of its obligations under FOIA.
7. On 22 October 2020 the Police, Fire and Crime Commissioner responded to both requests. However the complainant asked that the Information Commissioner issue a decision notice recording the time taken to respond.

Reasons for decision

Section 1: general right of access Section 10(1): time for compliance

8. Section 1(1)(a) of FOIA requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
9. Section 10(1) requires that the public authority comply with section 1 promptly, and in any event no later than 20 working days after the date of receipt of the request.
10. The statutory time for compliance has not been extended as a result of the Covid-19 pandemic, although the Information Commissioner has published a position paper setting out her regulatory approach in the context of the pandemic.¹

¹ <https://ico.org.uk/media/about-the-ico/policies-and-procedures/2617613/ico-regulatory-approach-during-coronavirus.pdf>

11. In this case the Police, Fire and Crime Commissioner responded just over four months after the requests had been received. This clearly exceeds the statutory time for compliance of 20 working days.
12. In light of the above the Information Commissioner records that the Police, Fire and Crime Commissioner failed to comply with section 10(1) in respect of section 1(1)(a) and section 1(1)(b) of FOIA. However, since the response has now been issued the Commissioner does not require any further steps to be taken.

Right of appeal

13. 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 123 4504
Fax: 0870 739 5836

Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

14. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Tribunal website.
15. 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

Sarah O'Cathain
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