

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 10 September 2018

**Public Authority:** Chief Constable of Lancashire Constabulary

**Address:** Police Headquarters

**PO Box 77**

**Hutton**

**Preston**

**Lancashire**

**PR4 5SB**

### **Decision (including any steps ordered)**

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1. The complainant requested information about Lancashire Constabulary's connection with the Lancashire Volunteer Partnership. After initially maintaining that it did not hold any relevant information, following the Commissioner's intervention, Lancashire Constabulary disclosed such information as it did hold.
2. The Commissioner's decision is that by failing to disclose to the complainant the information which it held within the statutory time for compliance, Lancashire Constabulary breached section 1(1) and section 10(1) of the FOIA.
3. As the requested information has been disclosed, the Commissioner requires no steps to be taken.

## Background

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4. According to its website, the Lancashire Volunteer Partnership ("the LVP") was established in 2016 between a number of local public sector organisations, including Lancashire Constabulary, to provide a single gateway into public service volunteering<sup>1</sup>.

## Request and response

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5. On 15 October 2017, the complainant submitted the following request for information to Lancashire Constabulary:

*"Please kindly produce all available documentation which explains your connection with "Lancashire Volunteer Partnership" and their website <https://lancsvp.org.uk/>*

*According to the whois database Lancashire Police registrant contact for the above website is*

*Lancashire Police, Po Box 77 Hutton Preston Lancashire PR4 5SB  
United Kingdom*

*<https://www.whois.com/whois/lancsvp.org.uk>*

*We're also interested in who governs "Lancashire Volunteer Partnership"."*

6. Lancashire Constabulary responded to the request on 13 November 2017. It said that Lancashire Constabulary is a founding member of the LVP and that the LVP website is registered and administered by the Constabulary along with other partners. It said it did not hold any further information which fell within the scope of the request.
7. The complainant responded to Lancashire Constabulary the same day to query the response. He provided some information as to why he believed that Lancashire Constabulary did hold further information falling within the scope of the request, and described what that information might be.
8. Lancashire Constabulary acknowledged receipt of the correspondence but failed to reply, despite the complainant contacting it on 28 December 2017 to request a response.

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<sup>1</sup> <https://lancsvp.org.uk/>

9. Following the Commissioner's intervention, Lancashire Constabulary issued a further response on 2 March 2018. It confirmed that it had a contractual arrangement with a digital agency for the LVP's website services, but said that it held no further, relevant information.
10. The complainant made a new FOIA request for a copy of the aforementioned contract on 2 March 2018 (this has been considered separately by the Commissioner, in decision notice FS50764807). He requested an internal review of the overall response to his original request on 15 March 2018. Lancashire Constabulary acknowledged receipt of the internal review request, but the complainant received no further response.

### **Scope of the case**

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11. The complainant contacted the Commissioner on 15 May 2018 to complain about Lancashire Constabulary's handling of his request. In view of her previous intervention in the matter, the Commissioner exercised her discretion to accept the complaint for investigation without waiting for an internal review to be completed.
12. The Commissioner contacted Lancashire Constabulary on 15 May 2018. She explained that the complainant found it hard to accept that Lancashire Constabulary held no information about the LVP, given that:
  - it admitted to being a founding member of the LVP;
  - it was the registrant for the "lancsvp.org.uk" domain name;
  - it had acknowledged that a contract existed between it and a digital agency in respect of the LVP website; and
  - the LVP's website hosted details of volunteering opportunities with Lancashire Constabulary.
13. Lancashire Constabulary sent an interim response to the Commissioner on 18 June 2018, indicating an intention to revise its position in light of information that it had recently located.
14. It provided a fuller response to the Commissioner on 26 June 2018. It said that, having reviewed the matter, it had uncovered a limited amount of information which was relevant to the request. By way of explanation as to why so little information was held, it said that the LVP was a partnership arrangement, but that to date, no formal Board/Governance structure had been established. It said it would disclose the information it had located to the complainant "*within the next few days*".

15. The complainant informed the Commissioner on 3 July 2018 that he had still not received the information from Lancashire Constabulary, and the Commissioner wrote to Lancashire Constabulary the same day asking it to arrange for the information to be disclosed within the following five days.
16. Lancashire Constabulary eventually disclosed the information to the complainant on 5 July 2018.
17. The complainant asked the Commissioner to issue a decision notice, considering Lancashire Constabulary's compliance with the timeliness provisions of the FOIA. He felt that Lancashire Constabulary had been very slow to address his request properly, and that it would not have done so at all if the Commissioner had not intervened.

## **Reasons for decision**

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### **Section 1 – general right of access**

#### **Section 10 - time for compliance**

18. 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.
19. 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.
20. The facts of this case are that the complainant requested information from Lancashire Police on 15 October 2017 which was only disclosed to him 181 days later, on 5 July 2018. Furthermore, he was at times told that no information was held, when this was not the case.
21. The Commissioner asked Lancashire Constabulary to explain its handling of the request. Lancashire Constabulary acknowledged that the request had been handled poorly. It said that this was, in part, due to an inexperienced Compliance Team (which handles all FOIA requests reviewed by the force) and the long-term absence of senior staff when correspondence was received. It acknowledged that it had failed to treat the complainant's initial querying of the response of 13 November 2017 as a request for an internal review, and there also appeared to have been an oversight when an internal response was received from the information owner. In summary, the resource issues and pressures faced by an inexperienced team appear to have contributed to the length of time taken to respond correctly to the follow-up correspondence.

22. Lancashire Constabulary said that it had since taken steps to address these issues with the provision of additional resources and formal training.
23. From the information provided to the Commissioner in this case it is evident that Lancashire Constabulary did not deal with the request for information in accordance with the FOIA. In this case, Lancashire Constabulary breached sections 1(1) and 10(1) by failing to respond to the request with the information it held, within 20 working days.
24. The Commissioner finds it particularly troubling that 21 working days elapsed between Lancashire Constabulary notifying her, on 18 June 2018, that it had located information which could be disclosed, and it finally making the disclosure on 5 July 2018.

## **Other matters**

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### **Monitoring**

25. The Commissioner routinely monitors the performance of public authorities and their compliance with the FOIA. Records of procedural breaches are retained to assist the Commissioner with this process and further remedial work may be required in the future should any patterns of non-compliance emerge.
26. To that end, as well as issuing this notice, the Commissioner has made a separate record of the failure by Lancashire Constabulary to respond to the complainant's request within the statutory time for compliance. This issue may be revisited should evidence from other cases suggest that this is necessary.

### **Internal review**

27. The Commissioner is unable to formally consider Lancashire Constabulary's handling of the complainant's internal review request because there is no obligation under the FOIA for a public authority to provide an internal review process.
28. However, it is good practice to offer one, and where an authority does choose to, the section 45 code of practice sets out, in general terms, the procedure that should be followed. The code states that reviews should be conducted promptly and within reasonable timescales. The Commissioner has interpreted this to mean that internal reviews should take no longer than 20 working days in most cases, or 40 in exceptional circumstances.

29. The code also sets out that any expression of dissatisfaction with the outcome of a request should trigger the internal review process. Lancashire Constabulary failed to recognise that the complainant's correspondence of 13 November 2017 should have been treated in this way.
30. Furthermore, although it did acknowledge the complainant's further internal review request of 15 March 2018, it failed to conduct one.
31. The Commissioner considers that Lancashire Constabulary has not acted in accordance with the section 45 code in these matters.

## Right of appeal

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32. 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](mailto:GRC@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

33. 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.
34. 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**