

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

### **Decision notice**

**Date:** 19 September 2018

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

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

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1. The complainant made requests for data on the numbers of recorded deaths of rough sleepers and the number of officers who had faced disciplinary action for racist behaviour.
2. The Commissioner's decision is that Sussex Police ("the Police") failed to respond to either request within 20 working days and has therefore breached Section 10 of the FOIA.
3. The Commissioner requires the Police to take the following steps to ensure compliance with the legislation.
  - Issue substantive responses, under the FOIA, to both requests.
4. The 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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5. On 29 March 2018, the complainant wrote to the Police and requested information in the following terms:

*"I would like to know the following:*

- The number of police officers that have been investigated, reprimanded or sacked for racist behaviour in each calendar year from 2014 to 2017.*
- The details of the incidents that led to disciplinary action taking place and the outcome of that action."*

6. On 13 April 2018, she wrote again to the police and made a further information request:

*"Under the Freedom of Information Act, please could you provide me with the following information: how many deaths of people who were sleeping rough were recorded in the police force area in each of the following calendar years, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017?"*

*"Please provide a breakdown for each of the years of the number of deaths by location (local authority area) as well as the gender, age, and cause of death, if known."*

7. The Police acknowledged the first request on 4 April 2018 and the second on 16 April 2018, but had failed to provide a substantive response to either request by the date of this notice.

## Scope of the case

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8. The complainant contacted the Commissioner on 10 August 2018 to complain about the failure, by the Police, to respond to the requests.
9. In line with her usual practice, the Commissioner contacted the Police on 21 August 2018 to highlight the outstanding responses. She requested that the Police respond to the requests within 10 working days.
10. As neither request has been responded to, despite her intervention, the Commissioner considers that a decision notice is appropriate in these cases.

11. The scope of this notice and the following analysis is to consider whether the Police have complied with Section 10 of the FOIA.

## Reasons for decision

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12. 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.*

13. Section 8(1) of the FOIA states:

*In this Act any reference to a "request for information" is a reference to such a request which –*

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

14. The Commissioner considers that both the requests in question fulfilled these criteria and therefore constituted valid requests for recorded information under the FOIA.
15. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
16. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Police have breached Section 10 of the FOIA.

## Right of appeal

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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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

**Deborah Clark**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**