

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 July 2016

Public Authority: Chief Constable of Greater Manchester Police

Address: Lawton Street

Openshaw

Manchester

M11 2NS

Decision (including any steps ordered)

1. The complainant has requested information about the operation of a particular traffic monitoring camera. Greater Manchester Police ("the Constabulary") has not responded to the request. The Information Commissioner's decision is that the Constabulary has breached sections 1(1) and 10(1) of the FOIA in that it has failed to provide a response to the request within the statutory time for compliance.
2. The Commissioner requires the Constabulary to issue a response to the request under the FOIA by either complying with section 1(1) or issuing a valid refusal notice.
3. The public authority 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

4. On 7 September 2015, as part of a wider exchange of correspondence about an alleged traffic violation, the complainant wrote to the Constabulary and requested the following information:

"2) It is noted that you state, accordingly, that the traffic lights were on red for 1.6 seconds and that the device used to capture this event

was a Gatsometer BV Type 36 Red Light camera which is a Home Office Type Approved Device.

On that note, in accordance with the disclosure of information as per ACPO Guidelines, you also attach a copy of the calibration period which runs from 27th January 2015 until 26th January 2016 - however, it is noted that from time to time, mechanical camera equipment can become defective over time. And therefore, as per ACPO Guidelines I request a copy of the calibration certificate taken at the time of the offence. As you'll appreciate, an annual certificate tells me nothing apart from that it was working at the time of installation, nothing more.

- 3) *Additionally, you confidently note: I quote from your email; "In addition, the device was tested upon installation of the film at 10.59 hours 29.6.2015 and again when the film was removed at 10.23 hours 1.7.2015. On both occasions, the camera was working correctly" ...*

Therefore, as per Pre-Action Protocol, as per ACPO Guidelines, please kindly supply to me a copy of this proof that the camera was, as you've stated in your email to me that, "...the camera was working properly."

- 4) *Again, I quote from your email: "The technician also checks that the traffic signals are working in their correct sequence and conform to regulations. In this case they were found to be working correctly and conformed to regulations."*

All well and good, but, for Pre-Action Disclosure as per ACPO Guidelines, and for proof that your comments are correct for court, please send to me the necessary proof (substantiated data) that you refer to in your email, as per the information supplied to you by your technician. Both sections of the substituted data from 3 and 4 above are missing from your email. Please forward ASAP in order to confirm the 'Police Technicians' findings.

...

I wish, therefore, to see a copy of the 'technicians calibration certificate' that you so stipulate in your email as; I quote again the same passage from your email;

"The technician also checks that the traffic signals are working in their correct sequence and conform to regulations. In this case they were found to be working correctly and conformed to regulations."

...

6) Again, I quote from your email; "The equipment is and at all times is operated in accordance with the Type Approval and all ACPO guidelines."

Thus, please forward this information to me prior to court; as you'll note, if the equipment is and at all times is operated in accordance with the Type Approval and all ACPO Guidelines, then as a guideline, I need to see the technician certificates as per my initial data request on the 25th July.

I will need this aforementioned information by law, by subject request, by request of the Freedom of Information Act ..."

5. Although the complainant continued to correspond with the Constabulary about the alleged traffic violation, at the date of this decision notice he had still not received a response to this request.

Scope of the case

6. The complainant initially contacted the Commissioner on 25 January 2016 to complain about the way his request for information had been handled.
7. After establishing the facts with the complainant, the Commissioner wrote to the Constabulary on 30 March 2016 to remind it of its obligations in respect of such requests and asking it to respond to the complainant within ten working days.
8. The Commissioner did not receive a response from the Constabulary. The complainant has since confirmed to the Commissioner that he has received neither a response to the request nor a refusal notice from the Constabulary.
9. The Commissioner has therefore considered the Constabulary's compliance with section 1(1) and 10(1) of the FOIA.

Reasons for decision

10. Section 1(1) of FOIA states that:

*"1(1) Any person making a request 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."

11. Section 10(1) of the FOIA states that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
12. The complainant submitted the request on 7 September 2015. The twentieth working day after the date of receipt was 5 October 2015. As the Constabulary did not issue a response by that date – and has still not done so - it has breached section 1(1) and 10(1) of the FOIA.

Other matters

13. 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

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@hmcts.gsi.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

Samantha Bracegirdle
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