

**FREEDOM OF INFORMATION ACT 2000 (SECTION 52)
ENFORCEMENT POWERS OF THE INFORMATION COMMISSIONER
ENFORCEMENT NOTICE**

DATED: 1 May 2024

To: Commissioner of Police of the Metropolis

Of: New Scotland Yard, Broadway, London SW1H 0BG

1. The Metropolitan Police Service ("MPS") is a "public authority" listed in Schedule 1 and defined by section 3(1)(a)(i) of the Freedom of Information Act 2000 ("FOIA"). FOIA provides public access to information held by public authorities.
2. MPS' obligations as a public authority under FOIA include –
 - a. Being obliged to publish certain information about its activities;
 - b. Responding to requests for information from members of the public.
3. The Information Commissioner (the "Commissioner") hereby issues MPS with an Enforcement Notice (the "Notice") under section 52 FOIA. The Notice is in relation to MPS':
 - a. Continuing non-compliance with section 1(1) FOIA;
 - b. Continuing breach of section 10(1) FOIA.
4. This Notice explains the Commissioner's decision to take enforcement action. The specific steps that MPS is required to take are set out in Annex 1.

Legal Framework for this Notice

5. A person requesting information from a public authority has a right, subject to exemptions, to be informed by the public authority in writing whether it holds the information, and to have that communicated to him, if the public authority holds it. This is set out in section 1(1) FOIA–

“(1) 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.”

6. Section 10(1) FOIA specifies that public authorities must respond to requests within 20 working days:

“... a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following receipt.”

7. There is provision under FOIA for a public authority to claim a reasonable extension to this limit in certain circumstances but, in all cases, the public authority must give the requestor a written response within the standard time limit for compliance.

8. The Commissioner has various powers under FOIA. One of these is the issuing of an Enforcement Notice. Section 52(1) of FOIA states –

“If the Commissioner is satisfied that a public authority has failed to comply with any of the requirements of Part I, the Commissioner may serve the authority with a notice (in this Act referred to as an “enforcement notice”) requiring the authority to take within such time as may be specified in the notice, such steps as may be so specified for complying with those requirements.”

9. Section 52 FOIA has effect subject to section 53 FOIA, which provides details of the exceptions from the duty to comply with a decision notice or enforcement notice.

Background

10. The Commissioner regularly reviews the National Police Freedom of Information and Data Protection Unit (“NPFDU”) FOI and SAR Performance and Monitoring Report (the “Report”) which is published on the National Police Chiefs’ Council (“NPCC”) website.
11. As at February 2024, the Report showed that MPS’ compliance rate for dealing with FOI requests within the statutory time limit had been consistently low at between 60 and 67% for the period April 2023 to February 2024. The Commissioner wrote to MPS to ascertain why performance was so unsatisfactory and to better understand any factors which may be impacting MPS’ ability to meet its statutory obligations under FOIA. Also, the Commissioner had to issue 11 section 10(1) FOIA Decision Notices to MPS between April 2023 and March 2024.
12. As a result, on 12 March 2024, the Commissioner had a meeting with MPS to discuss the reasons for the performance issues as regards responding to FOI requests within the statutory time limit. The Commissioner wants to put on record his appreciation for MPS’

engagement in what was a very productive call. MPS clearly recognise that they must make an improvement in their FOIA compliance and have already considered some measures to do so.

13. Some key areas of concern were discussed, namely:

- A notable increase in the number of requests received.
- Inadequate staffing. MPS advised the Commissioner that they have been carrying gaps in staffing for some time but that two new members of staff had been recruited recently and were currently being trained. However, it was acknowledged that training takes time and inevitably means existing members of staff who are involved in training are diverted from their FOI caseload as a result.

14. MPS explained that they are acutely aware of their shortcomings in FOI response times and they are working on an improvement plan which includes a trigger system where the line managers of FOI practitioners are called in and held to account for delays on cases. MPS are also working on omnicompetency where staff will be able to deal with FOI requests and subject access requests and can work flexibly to cover peaks in demand. However, this also involves training which diverts from casework time.

15. As at 17 April 2024, MPS had a significant backlog of 362 overdue requests. The vast majority of those requests were under three months old, with only one over 6 months old.

The Contravention and Reasons for this Notice

16. The Commissioner accepts that MPS has received, and continues to receive, a notably increased number of FOI requests compared to

previous years.

17. The Commissioner also accepts that MPS has issues recruiting and retaining appropriately qualified staff. This is an issue across the public sector, but is particularly acute amongst police forces as new recruits must also gain a security clearance – elongating the recruitment process.
18. That being said, responding to requests for information is a statutory duty. FOIA requires a public authority to inform people whether it holds information they have requested and to communicate it to them within 20 working days of receipt of their request.
19. It is imperative that MPS recognises the importance of responding to requests in a timely fashion and the legal implications of failing to do so. It is important that it has proper plans in place to reach and to maintain, high levels of compliance with FOIA.
20. MPS' compliance rate of well under 70% over the period April 2023 to March 2024 is unacceptable.
21. MPS' backlog of requests is significant and given MPS' current response rates, without significant change, the timeliness of responses will continue at a similar level.
22. In the circumstances, the Commissioner considers it a proportionate regulatory step to issue an Enforcement Notice requiring MPS to address its backlog of overdue requests.
23. Imposing a legally-enforceable deadline makes clear the priority that the Commissioner considers this task should be given. He has taken into account the scale of the backlog and the timing of this notice when

setting the timeframe by which he expects compliance.

24. The Commissioner also considers it a proportionate regulatory step to require MPS to devise and publish an action plan, which formalises measures to mitigate delays. This action plan should be supported by a 'lessons learned' exercise, which examines the root cause of delays in the requests from allocation through to clearance at different stages, with mitigations for any recurring problems addressed specifically in the plan.

25. The Commissioner considers that MPS may benefit from using his [self-assessment toolkit](#) which is designed to help public authorities assess their current FOI performance and provide indicators of where efforts should be focused in order to improve. Topic 1 is particularly relevant as it deals with timeliness.

Terms of this Notice

26. The Commissioner therefore exercises his powers under section 52 of FOIA to serve an Enforcement Notice requiring MPS to take specified steps to comply with FOIA. The specified steps are set out in Annex 1 of this Notice.

27. The consequence of failing to comply with an Enforcement Notice is that the Commissioner may make written certification of this fact to the High Court pursuant to section 54 of FOIA. Upon consideration and inquiry by the High Court, MPS may be dealt with as if it had committed a contempt of court.

Right of Appeal

28. By virtue of section 57 of FOIA there is a right of appeal against this Notice to the First-tier Tribunal (Information Rights). If an appeal is brought against this Notice, it need not be complied with pending determination or withdrawal of that appeal.

29. Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 9368963

Email: GRC@justice.gov.uk

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

30. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Enforcement Notice is sent.

**Phillip Angell
Head of FOI Casework
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Annex 1

TERMS OF THE ENFORCEMENT NOTICE

THIS NOTICE REQUIRES MPS TO TAKE THE FOLLOWING STEPS BY THE DATES SPECIFIED BELOW:

By 1 November 2024 MPS shall:

- (i) in respect of each information request where the response is outside of 20 working days as at the date of this notice, and where a permitted extension has not been applied, comply with section 1(1)(a) of FOIA and, if information of the description specified in the request is held, either:
- (ii) communicate that information pursuant to section 1(1)(b) FOIA; or issue a valid refusal notice under section 17 FOIA, unless section 17(6) FOIA applies.

Within 30 calendar days of this notice MPS shall:

- (iii) devise and publish an action plan formalising the measures it will take to ensure it complies with its legal duties under Part 1 of FOIA to respond to information requests in a timely fashion, while also clearing its backlog of late requests within 6 months as required by this notice.