

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

DATED: 20 November 2024

To: Commissioner of the City of London Police

**Of: Police Headquarters
Guildhall Yard
East London
EC2V 5AE**

1. The City of London Police ("CoLP") 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. CoLP's 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 CoLP with an Enforcement Notice (the "Notice") under section 52 FOIA. The Notice is in relation to CoLP's
 - 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 CoLP is required to take are set out in Annex 1.
5. The Commissioner expects CoLP to ensure that it continues to meet its obligations to comply with subject access requests under the UK GDPR whilst actioning the steps in Annex 1.

Legal Framework for this Notice

6. 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.”

7. 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.”

8. 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.

9. 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.”

10. 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

11. 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”) website¹. In April 2024, the Commissioner noticed that recent FOIA compliance statistics for CoLP were absent from the Report.

12. The Commissioner wrote to CoLP on 1 May 2024 to ask for detailed statistics on its FOIA compliance, for the financial year 2023/24. After

¹ <https://www.npcc.police.uk/About-Us/governance-and-accountability/foi-and-subject-access-request/>

a significant delay, the data CoLP supplied revealed that its average compliance rate in the financial year 2023/24 for responding to requests within 20 working days of receipt, was 68%, which the Commissioner considers to be low.

13. Communications between the Commissioner and CoLP continued, with CoLP providing equivalent data for quarters 1 and 2 of 2024/25. Its compliance rates had further reduced, to 62% and 54%, respectively.

14. Also of concern is CoLP's compliance rate for responding to internal review requests within recommended timescales. For the first two quarters of 2023/24, its rate was 33% and 50%. By the first two quarters of 2024/25, its rate remained low, at 40% and 66% respectively.

15. The statistics provided to the Commissioner also revealed that CoLP has a backlog of older requests that it has yet to respond to. The backlog by the end of 2023/24 was 366 requests, and it has risen further, to 469, in the six months to the end of September 2024.

16. As of the end of September 2024, CoLP said it had 309 requests that were over six months old (from the date of receipt) and five over 12 months old. It said the oldest open request was 467 days old.

17. From June 2023 to date, the Commissioner dealt with 12 complaints about CoLP which involved timeliness issues. Some complaints were resolved informally, but seven decision notices were issued, and in 5 cases it was necessary to tell CoLP to provide a substantive response to the requests.

18. In its correspondence with the Commissioner about the reasons for

these timeliness issues, CoLP explained that it has faced significant staffing challenges, at the same time as experiencing an increase in the number and complexity of Freedom of Information requests. It said additional resources have now been made available to support its handling of information access matters, but this has taken time and it remains an ongoing challenge to recruit and train suitable staff.

The Contravention and Reasons for this Notice

19. 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.
20. The Commissioner first approached CoLP for information about its compliance with response timescales on 1 May 2024. In the intervening six months, CoLP has explained that its work to address its timeliness issues remains ongoing. It has acknowledged that these measures will take some time to put in place and to take effect.
21. The Commissioner acknowledges the work CoLP has done to address its resourcing issues and to identify other areas where its processes might be improved. However, he considers that CoLP's compliance rate over the period for which he has been provided statistics, is unacceptable.
22. Taking into account the significant volume of unanswered requests, their age profile, and the need for significant and sustained improvement in providing timely response to requests, the Commissioner considers it a proportionate regulatory step to issue an Enforcement Notice to CoLP.
23. Imposing a 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 ongoing resource pressures faced by CoLP when setting the timeframe by which he expects compliance.

24. This Notice requires CoLP to comply with section 1(1) of FOIA in respect of each FOIA request, where the response is outside of 20 working days at the date of this Notice, and where a permitted extension of a maximum of a further 20 working days has not been applied. It is essential that the improvements described in Annex 1 are implemented, which compliance with this Notice will support.

25. The Commissioner also considers it a proportionate regulatory step to require CoLP 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 to responding to information requests, from allocation through to clearance and issuing, with mitigations for any recurring problems addressed specifically in the plan.

Other Matters - Internal Review

26. The Commissioner cannot consider the amount of time it took a public authority to complete an internal review in an Enforcement Notice because such matters are not a formal requirement of FOIA. Rather they are matters of good practice which are addressed in the Code of Practice issued under section 45 of FOIA.

27. Sections 5.4 and 5.5 of the Code set out that a reasonable time for the completion of an internal review is 20 working days following the receipt of the request for review, or, in exceptional circumstances, no more than 40 working days.

28. As set out in paragraph 14, the Commissioner is satisfied that CoLP

failed to conform with the Code and recommended best practice in relation to the requests it received across 2023/24, and for the first two quarters of 2024/25.

29. He recommends that CoLP should ensure that internal review requests are responded to in a timely manner. He is therefore also recommending, in line with his powers under section 48(1) of FOIA, that the action plan he has required under this Notice also captures the activity CoLP will take to bring its handling of internal reviews in line with the section 45 Code of Practice. He recommends the root cause analysis of first instance requests that is required as part of the Notice is extended to also cover the internal review cases currently delayed.

30. The Commissioner considers that CoLP 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

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

32. 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, CoLP may be dealt with as if it had committed a contempt of court.

Right of Appeal

33. 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.

34. 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

35. 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 CoLP TO TAKE THE FOLLOWING STEPS BY NO LATER THAN THE DATES SPECIFIED BELOW:

By 20 May 2025, CoLP 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, CoLP 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 information requests in a timely manner, whilst also clearing its backlog of overdue requests within six months as required by this Notice.