

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date 15 February 2007

Public Authority: Derbyshire Constabulary ('the Constabulary')
Address: Butterley Hall
Ripley
Derbyshire
DE5 3RS

Summary Decision

The complainant made requests for over 50 pieces of information to the member organisations of Derbyshire Safety Camera Partnership ('DSCP'). The requests were made over a total of 19 occasions and were all related to an alleged road traffic offence. The complainant received relevant information and advice in relation to his requests, until he made a request dated 7 March 2006 to Derbyshire Constabulary ('the Constabulary'). This request was considered by the police to be vexatious and repeated. DSCP responded on behalf of the Constabulary and refused to provide information citing section 14 of the Freedom of Information Act ('the Act'). The Commissioner considered that the requests were made to different DSCP partners, each separately recognised by the Act, and determined that the requests could not be aggregated for the purpose of applying section 14. In an attempt to resolve the complaint informally the Constabulary was asked to reconsider its refusal and to supply to the complainant the requested information. The Constabulary agreed to this proposal and provided the complainant with additional information. The Commissioner's decision is that initially the Constabulary failed to comply with section 1 (1) of the Act, inappropriately relying on section 14. However, following his intervention, further information has now been supplied to the applicant and the Commissioner is satisfied that the Constabulary has now complied with the requirements of Part I of the Act. Therefore he has not ordered the Constabulary to take any steps.

The Commissioner's Role

1. The Commissioner's role is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 ('the Act'). This Notice sets out his decision.

Derbyshire Safety Camera Partnership is not itself a public authority for the purposes of the Act. However, it does act as a coordinating body for requests

about safety cameras. In this case the complainant made requests to the individual members of the DSCP which are all separate public authorities subject to the requirements of Part I of the Act. This Decision Notice is served on the Constabulary because its Central Ticket Office received the request that is the subject of the complaint and because it holds the information that has been withheld from the complainant.

The Request

2. On **7 March 2006** the complainant wrote to the Central Ticket Office of Derbyshire Constabulary seeking the provision of the following information:
 - i. *“The commissioning evidence from when the speed meter was installed.*
 - ii. *Copies of the bills for calibration of the unit.*
 - iii. *Copy of proof of posting from the summons.*
 - iv. *The road traffic orders on the road at the time.*
 - v. *An estimate of how much has been spent so far by the Crown.”*

The information sought relates to a police enforcement camera and an alleged driving offence.

3. On **9 March 2006**, DSCP issued a Refusal Notice on behalf of the Constabulary to the complainant, citing section 14 (1) (Repeat and Vexatious Requests) of the Act.
4. The complainant requested an internal review of the refusal on **11 March 2006**.
5. The DSCP up-held its refusal of the request on **11 April 2006**. The internal review referred to the complainant's 'continued themed requests' and their imposition of 'substantial burdens on the financial and human resources of the Safety Camera Partnership'. It also referred to the complainant's requests as being 'obsessive and manifestly unreasonable' and having a detrimental impact on the DSCP's core role.

The Investigation

Scope of the case

6. On **30 April 2006** the complainant contacted the Commissioner to complain about the refusal by the DSCP of his request for information.
7. The investigation was initially focused on the application of section 14(1). The Commissioner's view in relation to the use of section 14 in this case is included in this notice. However it is important to clarify that in some cases of this nature the

Commissioner will attempt to seek an informal resolution. In this case when the initial assessment of the use of section 14 was communicated to the Constabulary and further evidence requested, the Commissioner also explored the possible provision of the outstanding information. The Constabulary was amenable to this approach and in fact agreed to suspend the application of section 14(1), without prejudice to its earlier position.

8. Subsequent to the Commissioner's involvement further information was provided to the complainant. When making a further response to the complainant the Constabulary confirmed that certain information requested by him was not in fact held. The complainant disputed this assertion and therefore the Commissioner has also investigated whether the remaining information was held or not. The Commissioner has considered the additional responses made by the Constabulary when determining whether or not to include steps within this notice.

Chronology of the case

9. On **2 September 2006** the caseworker wrote to the DSCP asking for a full list of the complainant's requests; an indication of how these had been answered; the time which had been spent in answering the requests; and an outline of the DSCP's considerations in determining that it was not under a duty to provide the information specified in the latest requests by virtue of section 14 (1).
10. The Constabulary responded to the caseworker's request on **20 September 2006**. It provided a spiral-bound portfolio of the complainant's correspondence and requests together with an itemised list of requests. A breakdown of the time spent by each partner organisation was provided, indicating an aggregated total of 57 hours 50 minutes. This was used by the Constabulary to demonstrate the burden that the complainant's requests had placed on the public authorities involved.
11. The caseworker wrote to the Constabulary on **6 October 2006**. He informed the Constabulary that the complainant's requests were made to separate members of the Safety Camera Partnership and that each were public authorities in their own right. He stated his view that it was not acceptable to aggregate the complainant's requests to these separate authorities, and that the police had only received nine requests over a twelve month period. The caseworker invited the Constabulary to reconsider the complainant's requests in an attempt to resolve the complaint informally.
12. On **18 October 2006** the Constabulary wrote to the caseworker to indicate that it would release further information to the complainant to resolve the complaint informally.
 - The Constabulary pointed out that the complainant had already received the commissioning evidence from when the enforcement camera was installed. This was acknowledged by the complainant in a letter to the caseworker dated 8 September 2006.

- The Constabulary confirmed that it held no bill for the calibration of the unit of concern to the complainant.
 - The Constabulary pointed out that the proof of posting of the summons would attract the section 40(1) (Personal Information) exemption and informed the Commissioner that this would more appropriately be dealt with under section 7 of the Data Protection Act or pre-trial disclosure. The Constabulary then dealt with this request under section 7 of the DPA opting to waive the £10 fee and disclosed the proof of posting to the complainant.
 - The Constabulary informed the Commissioner that the Road Traffic Orders had already been sent to the complainant on two occasions by Derbyshire County Council. Again for the purpose of bringing the complaint to a conclusion, the police decided to send to the complainant the Orders that it held.
 - The Constabulary confirmed that it does not hold information relating to the time and resources it allocates to cases and is not in a position to respond to the complainant's fifth request.
13. The Constabulary wrote to the complainant on **31 October 2006** with the purpose of providing him with the additional information listed above at point 12. This letter and a copy of the Road Traffic Order was also sent to the Commissioner.
 14. On **2 November 2006** the complainant wrote to the Constabulary to question its response in relation to the bill for calibration, the proof of posting and the costs spent by the Constabulary in relation to his case.
 15. The caseworker telephoned the Constabulary to make enquiries concerning the issues raised in the complainant's letter of 2 November. He subsequently wrote to the complainant on **8 November 2006**. This letter gave further explanation regarding the responses in relation to the bill for calibration, the proof of posting and the costs of his case to the Crown.
 16. On **13 November 2006** the complainant wrote to the caseworker to raise further concerns. He confirmed that he had made further requests: for the proof of posting of the summons by Tapton Magistrate's Court; for an email sent by Serco to the Constabulary and for the bills of calibration of the particular safety camera between 2000 and 2005.
 17. The caseworker's team leader wrote to the complainant on **24 November 2006** in reply to his letter of 13 November. He was informed that his further requests for information would have to be taken forward as separate cases in the event that he was dissatisfied with the response from the DSCP.

Analysis

18. It is accepted by both parties that the complainant has received the commissioning evidence from when the camera was installed. Therefore the Commissioner has not considered this point any further.

Bills for calibration of the unit

19. During the investigation this element of the request was taken to refer to the bill for calibration relevant to the period in which the offence was allegedly committed. This point was not contested by any of the parties during the course of the investigation. In fact, as mentioned above, the complainant advised the caseworker that a further request for earlier bills of calibration was submitted to the DSCP in November 2006. However, the Commissioner recognises that the original request in relation to bills of calibration could be interpreted as being broader in scope as it does not include a specific date or dates of interest to the complainant. In any event, as this information is the subject of a further request, the conclusions set out in this notice are based on the Commissioner's original interpretation of this part of the request.
20. The Constabulary explained to the caseworker that it did not hold the bill of calibration for the unit of interest to the complainant. This was because the camera was calibrated without a fee being charged. The company therefore did not include this unit on any invoice. The caseworker requested evidence from the Constabulary to support this explanation and was provided with a copy of an email from the calibration company Serco. This confirmed that due to the delay in carrying out the calibration of this particular unit, no charge was made by Serco as a gesture of goodwill. The Commissioner is satisfied that on the basis of this evidence the Constabulary does not hold the bill of calibration which was taken to be relevant to the request.

Proof of posting of the summons

21. In its letter of 18 October, the Constabulary stated that it would send the proof of posting to the complainant. The investigation discovered that the proof of posting referred to by the Constabulary was a record of the stages through which the alleged offence passes and this is in fact an authentication certificate. The Commissioner is satisfied that the police hold no proof of posting of the summons other than the authentication certificate and it is this which informed the complainant of the stages, and of the associated dates, through which his alleged offence progressed prior to the summons being issued. The Magistrates Court was sent a notice of the complainant's alleged offence on 26 April 2005. This is called 'laying an information'. On 28 April the notice was received by the court and signed and at this point the summons is said to be issued. The summons was then sent back to the Constabulary so that it could be served on the complainant. The stages involved in the process of serving the summons was recorded on an authentication certificate. This was dated 16 May 2005 and was sent to the complainant on 31 October 2006. The Commissioner understands that the police used its own internal dispatch system for the transport of documents; including the 'laying of the information' at the Magistrates Court and the return of

the signed summons from the court to the police. The police and the court hold no proof of posting via its internal mailing system. The complainant has been provided with a copy of the certificate of authentication which states the date on which the police served the summons to him.

22. The Road Traffic Orders for the road at the time of the offence were supplied to the complainant for a third time in an attempt to resolve his complaint informally.
23. The Commissioner is satisfied that the police do not hold recorded information concerning the costs of the complainant's case to the Crown. He is satisfied with the police explanation that it does not record either the time spent on a case or the resources allocated to it.

The Decision

24. The Commissioner has determined that Derbyshire Constabulary initially failed to comply with section 1 (1) of the Act. This is because it refused to reply to the complainant's requests, inappropriately citing section 14 of the Act.
25. However, following the Commissioner's intervention the Constabulary agreed to respond to the complainant's requests. The Commissioner is satisfied that the Constabulary has now complied with its obligations under Part I of the Act. Therefore he has not ordered any steps in this notice which the Constabulary is obliged to take.

Steps Required

26. The Commissioner requires no steps to be taken.

Right of Appeal

27. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

Dated the 15th day of February 2007

Signed

**Graham Smith
Deputy Commissioner**

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**