

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 23 September 2010

Public Authority: Sunderland City Council

Address: Civic Centre
Burdon Road
Sunderland
SR2 7DN

Summary

The complainant made a series of requests to Sunderland City Council ('the Council') between February 2008 and December 2009 regarding speed camera signage following his conviction for a speeding offence. The Council declared his request of 17 December 2009 to be vexatious under section 14(1) of the Freedom of Information Act 2000 ('the Act'). The Commissioner has investigated and finds that the public authority correctly applied section 14(1) to the request.

The Commissioner's Role

1. The Commissioner's duty 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.

Background

2. The complainant became involved in a dispute with the Council after receiving a speeding penalty charge on 5 May 2007 as a result of safety camera operated by the local Safety Camera Partnership, of which the Council is a member. The penalty was challenged unsuccessfully in the Magistrates Court. Subsequently the complainant made requests for information and allegations regarding the validity of

safety camera signage. On 6 January 2010 the complainant made the Commissioner aware that the request determined to be vexatious is one request amongst twenty months of correspondence.

3. The Commissioner notes the public authority provided details of the information requests made by the complainant dating back to 17 January 2008 with 10 requests being made in the ten months prior to the request of 17 December 2009. The public authority provided copies of the correspondence which also involve Northumbria Safer Roads Initiative (previously Northumbria Safety Camera Partnership), Aurora (a trading arm of Balfour Beatty in public private partnership with the Council), Gateshead Council, North Tyneside Council and Northumbria Police.

The Request

4. On 17 December 2009 the complainant made the following request for information:

"The letter attached was received on the 14/12, it shows that the request to erect the signs originated from within Sunderland City Council, (18 months it has taken to find this out), now I would like to know WHO commissioned them from Aurora and all relevant paperwork associated with that request.

Also the whereabouts of [names 1 and 2] who have gone missing from Aurora.

This again to be considered as a FOIR."

5. The Council provided a refusal notice on 11 January 2010. It advised the complainant that the Council had considered the history and background of earlier correspondence on the same or similar issues and confirmed that this latest request had been determined to be vexatious under section 14(1) of the Act.
6. The complainant pursued his request on 25 January 2010 with the Council's Private Finance Initiative partner, Balfour Beatty, using its general email address.

The Investigation

Scope of the case

7. On 13 January 2010 the complainant contacted the Commissioner to complain about the way his requests for information had been handled.
8. The Commissioner's investigation sought to establish whether the Act had been correctly applied by the Council. In particular the complainant asked the Commissioner to consider the Council's decision to declare his last request vexatious.
9. The complainant also raised other issues that are not addressed in this Notice because they are not requirements of Part 1 of the Act.

Chronology

10. On 8 April 2010 the Commissioner wrote to the complainant to advise him that his investigation of the complaint was about to begin. At this date the Council had already provided the Commissioner with further detail on its application of section 14 of the Act and a chronology of the complainant's requests.
11. On 29 April 2010 the Council undertook to provide the Commissioner with two bundles comprising the complainant's complaints and requests for information and the Council's responses in support of its application of section 14 of the Act.

Analysis

Section 14: Vexatious and repeated requests

12. Section 14(1) states:
"Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious."
13. The Commissioner's approach to considering whether section 14 has been applied correctly can be summed up by assessing the following statements in relation to the request:
 - it would create a significant burden in terms of expense and distraction
 - it is designed to cause disruption or annoyance

- it has the effect of harassing the public authority
- it can otherwise fairly be characterised as obsessive or manifestly unreasonable
- it clearly does not have any serious purpose or value

The Commissioner will also consider the context and history of the request as well as the strengths and weaknesses of both parties' arguments in relation to some or all of the above factors.

14. It is not necessary for all of the above criteria to be satisfied in order for a request to be deemed vexatious, indeed a strong argument in one may outweigh weaker arguments in the others. As the Information Tribunal commented in the case of *Coggins v the Information Commissioner* (EA/2007/0130)

"a decision as to whether a request is vexatious within the meaning of section 14 is a complex matter requiring the weighing in the balance of many different factors. The Tribunal is of the view that the determination whether a request was vexatious or not might not lend itself to an overly structured approach..." (paragraph 20).

Would it create a significant burden in terms of expense and distraction?

15. In the context of this case the Commissioner considers that a response from the Council to this latest request is unlikely to satisfy the complainant's continued requests and pursuance of the Council's complaints process. In answering this request it seems extremely likely that further correspondence, further requests and possibly complaints against individual officers would be forthcoming. The Council has stated that:

".....your dissatisfaction with the Council and other bodies related to this issue are likely to be somewhat intractable,".

The Commissioner considers the Council's conclusion to be justified and accepts that the burden in terms of expense and distraction created by the requests has been significant and may be likely to continue.

16. In the case of *Coggins v the Information Commissioner* (EA/2007/0130), the Tribunal found that a "significant administrative burden" (para. 28) was caused by the complainant's correspondence with the public authority, which started in March 2005 and continued until the public authority applied section 14 in May 2007. The complainant's contact with the public authority ran to 20 information requests, 73 letters and 17 postcards. The Tribunal said this contact

was "...long, detailed and overlapping in the sense that he wrote on the same matters to a number of different officers, repeating requests before a response to the preceding one was received....the Tribunal was of the view that dealing with this correspondence would have been a significant distraction from its core functions..." (para 28). In this case correspondence from the complainant, including overlapping requests on the same matters, counted in excess of 200 emails between January 2008 and 21 December 2009 including one request per month in the ten months prior to request determined to be vexatious.

17. The Commissioner considers it appropriate for the public authority to consider the aggregated effect of dealing with the requests. As noted at paragraph 3 of this Notice the public authority has provided the Commissioner with details of the series of information requests the complainant has made on similar topics starting in January 2008. The authority provided the requested information or stated that no information was held prior to issuing the refusal notice on 11 January 2010, applying section 14(1) of the Act. In conclusion the Commissioner accepts that taking together the action already taken by the public authority and the potential for further correspondence and follow-on requests from the complainant, the effect of complying with the requests would have placed a significant burden on the public authority.

Was the request designed to cause disruption or annoyance?

18. The Commissioner is satisfied that the complainant's requests were not meant to be disruptive in themselves. In that sense he does not believe they were primarily intended to cause annoyance or disruption to the public authority. However, the Commissioner notes the Council has provided copies of further requests that show that he has continued to make similar requests to various parts of the public authority and to different public authorities since receiving the section 14 refusal notice.

Did the request have the effect of harassing the public authority or causing distress to staff?

19. This consideration takes into account the effect a request has had on a public authority regardless of the requestor's intention. The Commissioner recognises that some cases arise in connection with a grievance or complaint which an individual is pursuing against a public authority. In this case the Council considered that some of the language used in the complainant's correspondence was hostile and harassing for those staff involved with receiving and dealing with the correspondence. The Council made the complainant aware of this

situation, however he continued mingling requests with accusations and complaints. The Commissioner considers the actions taken by the Council in this respect to be appropriate.

20. The requests indicate the complainant's desire to investigate the Council's implementation of camera signage including naming individuals and tracking their whereabouts. The Commissioner notes that the complainant states his purpose is to: "right a wrong" and in pursuing this aim the complainant goes on to make accusations of perjury, collusion and conspiracy. Such accusations are often found to be distressing, particularly when they are targeted at specific individuals.

Could the request be seen as obsessive?

21. In assessing whether a request can be deemed obsessive or manifestly unreasonable, a public authority may take into account previous knowledge it has of the requestor as well as previous grievances, disputes or complaints involving the requestor. In this case the volume and frequency of correspondence, in the wider context of the request and earlier related requests, and requests with the intention to cover issues that have already been debated and considered are relevant in determining if the Commissioner would consider this request to be obsessive. The Council has provided copies of the correspondence appertaining to this matter over the two year period including enquiries, complaints, requests and allegations. In the case of *Betts v Information Commissioner EA/2007/0109*, there had been a dispute between the Council and the requester which had resulted in ongoing FOIA requests and persistent correspondence over two years. The complainant had made numerous requests relating the inspection of the road, work instructions and repairs to the road, information as to traffic flows, highway inspections and risk assessments. The correspondence continued despite the Council's disclosures and explanations. Although the latest request was not vexatious in isolation, the Tribunal considered that it was vexatious when viewed in context. The Tribunal's finding in *Betts* supports the Council's application of Section 14 in this case as the complainant has followed a similar pattern which can be considered obsessive.
22. In reaching their decision to apply section 14, the public authority took into account the fact that the complainant had been in correspondence with them over a long period of time and it had provided information for all requests where possible. The complainant had supplied information to the public authority raising issues he wished them to consider and the public authority confirmed these had been thoroughly investigated on more than one occasion. The Commissioner considers that an obsessive request can often be identified where a complainant

continues with making requests or complaints despite being in possession of independent evidence which goes against him. In this case the Council has investigated the complaints and the complainant has taken the case to the Magistrate's Court and lost the Commissioner considers that this goes to support the conclusion that the requests can be described as obsessive.

Does the request lack any serious purpose or value?

23. The Commissioner notes that the complainant considers his actions to be in the public interest. However, there comes a point when the serious purpose of a matter is outweighed by the obsessive and burdensome nature of correspondence and requests covering similar points. The request of 17 December 2009 returns to the question of who commissioned the signs in 2007. Gateshead Council has provided a copy email which states that it believes Sunderland City Council commissioned the signs from Aurora although other arrangements were already in place. The request comprises of information on three individuals. In considering the comprehensive correspondence already on this matter the Commissioner questions the value of this further request. The Commissioner considers that the complainant's correspondence in this matter began with a serious purpose which over time has become distorted such that any original objective has been lost. Consequently the Commissioner concludes that this request cannot have serious value.
24. Although the Commissioner accepts that there can be a thin line of distinction between obsession and persistence, each case must be determined on its own facts. This matter began with the dispute of a speeding fine applied after a Gatso speed camera recorded the complainant's vehicle speeding on 5 May 2007 and has continued since then with complaints and requests for information escalating to claims of conspiracy. This has involved several public authorities including Aurora Street Lighting, Northumbria Police, the IPCC, Sunderland City Council and the Local Government Ombudsman. It appears that an initial request has resulted in a campaign which is disproportionate in its impact on the Council and has become an unwarranted course of action. The Commissioner considers that the complainant's correspondence in this matter began with a serious purpose which over time has become distorted such that any original objective has been lost. Consequently the Commissioner concludes that this request cannot be considered to have serious value.
25. In considering those factors detailed in paragraph 13 in respect of the request in this case the Commissioner has weighed the factors and

found strong arguments in four of the criteria in support of the engagement of the exemption applied by the Council.

The Decision

26. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act by correctly applying section 14(1).

Steps Required

27. The Commissioner requires no steps to be taken.

Right of Appeal

28. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

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.

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

Dated the 23rd day of September 2010

Signed

Andrew White
Group Manager, Complaint Resolution

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

Legal Annex

S.14 Vexatious or Repeated Requests

Section 14(1) provides that –

'Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious'

Section 14(2) provides that –

'Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with a previous request and the making of the current request.'