Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 February 2012

Public Authority: Chief Constable West Mercia Police
Address: PO Box 55
Worcester
WR3 8SP

Decision (including any steps ordered)

1. The complainant has requested copies of legal advice provided to West Mercia Police (WMP) regarding complaints of illegal parking at the Stratstone Garage car dealership. The WMP refused the request under section 14(1) of the FOIA as it considered it vexatious.

2. The Information Commissioner's decision is that the request was vexatious and, therefore, WMP complied with the FOIA in this case.

Request and response

3. On 20 July 2011 the complainant wrote to WMP and requested information in the following terms:

"…under the Freedom of Information Act 2000, I hereby request the content of the legal advice given to Hagley Police informing them to take no action on highway obstruction."

4. WMP responded on 27 July 2011. WMP stated that it was not obliged to comply with the request as it considered it vexatious. WMP therefore withheld the information under section 14(1) of the FOIA.

5. Following an internal review the WMP wrote to the complainant on 19 August 2011. It stated that it remained of the view that the information requested was exempt under section 14(1) of the FOIA.

Scope of the case

6. The complainant contacted the Commissioner to complain about the way his request for information had been handled.

7. The Commissioner considers that WMP appropriately withheld the information as the request could be accurately characterised as vexatious.

Reasons for decision

8. Section 14 of the FOIA states a public authority is not obliged to comply with a request for information if the request is vexatious. The Commissioner considers the following five factors should be taken into account when considering whether a request can be accurately characterised as vexatious.

    - Whether the request is designed to cause disruption or annoyance.
    - Whether the request has the effect of harassing the public authority or its staff.
    - Whether the request can otherwise fairly be characterised as obsessive or manifestly unreasonable.
    - Whether compliance would create a significant burden in terms of expense and distraction.
    - Whether the request has any serious purpose or value.

9. The Commissioner wrote to WMP asking it to consider these five factors and how they applied in this case. In making this decision the Commissioner has considered WMP's representations as well as those of the complainant. The issue here is whether the request, rather than the requester, is vexatious. The wider context of the dealings between the public authority and the complainant may also be relevant, however, particularly where the pattern of the contact between the complainant and the public authority means that these requests can be fairly characterised as vexatious

Were the requests designed to cause disruption or annoyance?

10. WMP has not made any representations regarding this criterion. The Information Commissioner therefore considers that this criterion is not met.

Would the requests have the effect of harassing the public authority or its staff?

11. WMP has explained its view that the FOIA was enacted to assist people in seeking access to recorded information held by public authorities and not as a tool with which to harass them or to engage in protracted correspondence about matters that have already been appropriately addressed.

12. In assessing whether this request was to be deemed as obsessive or manifestly unreasonable, WMP says it took into account previous knowledge it has of the complainant. WMP has explained that this included the volume and frequency of correspondence and whether there was a clear intention to use the request to reopen issues that have already been debated on previous occasions.

13. WMP explained that the complainant has been submitting freedom of information requests, making phone calls and sending emails to WMP since at least July 2008, and that the frequency of these has increased significantly over the years. He has also submitted numerous complaints about the force and its employees.

14. Having considered the context and the history of the request the Information Commissioner's view is that this criterion is met.

Can the request otherwise fairly be characterised as obsessive or manifestly unreasonable?

15. WMP has argued that the number of freedom of information requests and other contact the complainant has made with WMP characterises the request as obsessive. WMP says:

    - Since July 2008 the complainant has made 26 FOI requests about crime and policing in Hagley.
    - In 2010 and 2011 he made 975 calls to our Call Management Centre to report incidents in Hagley.
    - Between September 2009 and December 2010 he sent 175 emails, mostly to Hagley Local Policing Team (HLPT).

16. WMP says that, while these requests, emails and complaints might, on their face value, appear to be for or about varied information or policing matters, the underlying issue at their heart is the complainant's dissatisfaction at the standard of policing in Hagley. In particular WMP says that the complainant made 57 reports between 1 November 2010 and 30 April 2011 of obstruction regarding Stratstone Garage parking vehicles outside its premises, and subsequently made freedom of

information request to ascertain how many reports had been made. WMP says these were the only reports it received during this period and the complaint was advised of this.

17. WMP also says that the complainant continuously reports incidents of litter, graffiti and parking, then requests the figures for these under FOI and uses them as 'evidence' in local Partners and Communities Together (PACT) meetings, and supplies them to local media.

18. The Information Commissioner's view is that the complainant's behaviour could be fairly characterised as obsessive. The Information Commissioner considers that this information request appears to be one of several the complainant has submitted to WMP which serves to further a complaint he has made to them and which WMP has already considered.

19. The Information Commissioner therefore finds that this criterion is met.

Would the requests impose a significant burden in terms of expense and distraction?

20. WMP believes that the volume of correspondence it has received from the complainant since 2008 presents an unjustified distraction from police core functions and places a burden on staff in dealing with issues which have already been dealt with.

21. Based on the information WMP has provided the Information Commissioner considers this criterion is met due to the likelihood that complying with this would lead to WMP receiving further contact from the complainant. This likelihood is supported by the pattern of previous requests and correspondence from the complainant to WMP.

Does the request have any serious purpose or value?

22. WMP has not made any representations regarding this criterion. The Information Commissioner therefore considers that this criterion is not met.

Other matters

23. The requested information in this case was legal advice, on the basis of which the complainant considers WMP decided to take no action in response to parking complaints he made. WMP has explained however that the legal advice it received was in response to a request about how to address the complainant's persistent behaviour. WMP therefore considers that, aside from its view that the request was vexations, it

does not hold information falling within the scope of the complainant's request.

Right of appeal

24. 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: 0116 249 4253
    Email: informationtribunal@hmcts.gsi.gov.uk
    Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

25. 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.

26. 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 ……

Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF