

## Freedom of Information Act 2000

### Decision notice

**Date:** 7 February 2013

**Public Authority:** Commissioner of the Metropolitan Police Service

**Address:** New Scotland Yard  
Broadway  
London  
SW1H 0BG

#### Decision (including any steps ordered)

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1. The complainant has requested information about dead dogs found at a kennel and information regarding a specified microchip implant. The Commissioner's decision is that the Metropolitan Police Service (MPS) has correctly refused the request on the grounds that it is vexatious, as permitted under section 14 of the Freedom of Information Act (the Act). No further action is required.

#### Request and response

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2. On 29 March 2012, the complainant wrote to MPS and requested information in the following terms:

*"I would like to ask to see the photographic evidence of the dead dogs found at Longcross met police kennels and I also still await the confirmation of the chip number supplied to you which is now chipped to my beloved dog who is recorded as stolen from Kent and who was sent from Longcross kennels to Battersea on the 12<sup>th</sup> May 09 (ref09/02203 DBCH) and illegally rehomed by Battersea as your officers at Croydon failed to call the dog warden and then took my handable dog from Croydon to a closed kennel as confirmed by [police officer A] of Wandsworth. This officer has already wished he were never involved wich is very interesting, clearly taking handable dogs from a Police station is against new guidelines and therefore this officer may need to be dismissed.*

*Obviously this investigation should have been dealt with by Scotland Yard in the first place as advised by officers within Croydon and not myself or maybe even passed to the Home Office direct.*

*As for legal action as you deputy Commissioner has advised, this makes total sense although I am sure to go front page news and possibly ruin many reputations which I am sure would not be very wise.*

*I have not yet been reunited with my beloved dog zd34 wich was handed into Croydon police on the 2<sup>nd</sup> May 09 by a [named individual A] whom gave my dog a false name as I have a photo of him sent by [police officer A].*

*I hope that the [Commissioner of Metropolitan Police] is doing his best to reunite me with my dog and you are personally making him aware of my requests.*

*I would advise the Metropolitan police to therefore meet my request by reuniting me with my dog and in doing so also meet Her Majesty's the Queen's wish.*

*Obviously had I been reunited with ZD34/ [complainant's dog] at Battersea on the correct date, there would be no need to keep raising these pertinent questions. Infact you could say that had I not been sent a Dangerous Dog chipped to the Met police the serious animal welfare issues could still be present at Longcross kennels."*

3. MPS responded on 19 April 2012. It stated that it held no photographic evidence of dead dogs found at Longcross Kennels. It refused the request about the specified microchip number under section 21 of the Act (information accessible to applicant by other means) as MPS stated the information about this had already been disclosed in response to previous requests.
4. Following an internal review MPS wrote to the complainant on 3 September 2012. In the review MPS altered its position and stated that the request was being refused under section 14 of the Act (vexatious or repeated requests).

## **Background to decision and scope of the case**

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5. The complainant lost his dog in April 2009, and is of the opinion that soon after his dog was placed in the care of MPS. As the complainant has not been reunited with his dog he has stated that MPS is at fault. Over time the complainant has begun stating that he believes there is a criminal conspiracy at the heart of this and that his dog is being withheld from him by certain members of MPS staff.
6. The Commissioner wishes to stress that it is not the purpose of this decision to decide whether there is a criminal conspiracy, as it is not his responsibility to do so. The decision is only concerned with MPS's handling of the complainant's request.

7. The complainant contacted the Commissioner on 30 May 2012 to complain about the way his request for information had been handled. Whilst this complaint occurred before the internal review the Commissioner's investigation and this decision has been focussed entirely on whether MPS is entitled to rely on section 14 as the basis for refusing the request.

## Reasons for decision

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### Section 14

8. Section 14(1) of the Act states that:

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

9. The recent Information Tribunal decision of *Belchamber v Information Commissioner*<sup>1</sup> stated that the term vexatious "represents conduct". The Commissioner has published guidance which describes the conduct that is usually present in vexatious requests. It can be determined using the following questions:

- Can the request fairly be seen as obsessive?
- Is the request harassing the authority or causing distress to staff?
- Would complying with the request impose a significant burden in terms of expense and distraction?
- Is the request designed to cause disruption or annoyance?
- Does the request lack any serious purpose or value?

As MPS has only considered questions 1, 2, 3 and 5, the Commissioner will do likewise.

10. Recent decisions from the First-Tier Tribunal have asserted that this guidance should not be used as a checklist, as it is possible for one factor to be so extreme that it alone can justify the use of section 14(1). However, it should be noted that the Tribunal considers the guidance

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<sup>1</sup> EA/2012/0163 paragraph 10

"helpful"<sup>2</sup> and it remains a useful guide for public authorities to determine whether a request is vexatious.

11. In accordance with the First-Tier Tribunal decision in *Rigby v Information Commissioner and Blackpool, Fylde and Wyre Forest Hospitals NHS Trust*<sup>3</sup> the Commissioner will also consider the context and history of the request. In certain circumstances the request in isolation will not be vexatious but can be considered so when placed in a wider context.

### **Can the request fairly be seen as obsessive?**

12. The Commissioner accepts that a missing dog can be an evocative subject and provoke a strong emotional response from the affected party, as is the case in this instance. This is demonstrated by the complainant's letter to MPS of 21 January 2010, which states:

*"Please understand that he may be just a stolen dog to some people but to us he is a kidnapped member of the family as Maddy is to the McCanns. My search which is on an everyday basis will continue until I get him back"*

13. It is also apparent from reading the correspondence in this case that MPS has at times been inconsistent with some of the information supplied to the complainant. For example, a MPS superintendent stated that if the complainant made a request for CCTV footage from Croydon Police station he could "see no reason why for it to be refused". The request was submitted and subsequently refused under section 40 of the Act (personal information exemption). The Commissioner considers it reasonable that such inconsistent responses could raise doubts as to MPS's conduct.
14. However, the Commissioner considers that there are procedures in place to check upon MPS's conduct in these matters and ensure that an individual is fairly treated.
15. This complainant's concerns have been the subject of an investigation by MPS's official complaints system, the Directorate of Professional Standards, the current Deputy Commissioner, and both the current and former Commissioner of the MPS. These concerns have also been

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<sup>2</sup> Information Commissioner v Jbol Ltd, EA/2011/0238

<sup>3</sup> EA/2009/0103

investigated twice by the Independent Police Complaints Commission (IPCC). None of these investigations have shown that MPS is engaged in any criminal conspiracy or given any credence to the complainant's doubts about MPS's conduct.

16. The Commissioner considers that the complainant's grievance against MPS has been through the appropriate channels and been investigated on several occasions. The Commissioner notes that in the Deputy Commissioner's concluding letter of 2 April 2012 he stated that:

*"I am satisfied this matter has been fully investigated and I do not believe there is any merit in [the complainant] pursuing this issue. [The complainant] telephoned my office today. He has been advised to seek independent legal advice. It is hoped that in doing so it will satisfy him that there is no conspiracy in existence to cover up the loss of his dog."*

17. Despite the numerous times the complainant's concerns have been addressed, both internally by MPS and by the IPCC, the complainant remains adamant that he has suffered a grievance.
18. The request in this decision was the tenth submitted by the complainant on the subject of his missing dog. Some of the previous requests can be seen as attempts to obtain information about his missing dog. However, the request in this decision covers matters that have previously been addressed by MPS and shows that the complainant is unwilling to accept the previous responses.
19. The Commissioner notes that in its refusal notice to the complainant, MPS applied section 21 to the request concerning the microchip number. This is because the relevant information had been the subject of previous requests and MPS states it had disclosed the information it held. However the complainant maintains that further information is held and so has repeated his requests with a different wording.
20. The first request made for information about dog ZD34 (the one whose microchip number is mentioned in the request), was in 21 October 2010. MPS replied that no information was held. However, a second request was made on 26 January 2011 for information about dog ZD34 which produced two documents. MPS maintains that nothing further is held and the next two requests – which includes the request in this decision – have both been refused under section 21.
21. Whilst the Commissioner does consider there may be a reasonable doubt whether further information is held, he does not consider the complainant's approach to be the correct way to try and locate it. If a requester disputes the amount of information that has been disclosed

then they should follow the appeals procedure, the details of which is provided by MPS in a factsheet to every request that is made. First, an internal review should be carried out. Then, if the requester is still unsatisfied, the matter can be referred to the Commissioner. The complainant is aware of this as he has previously asked the Commissioner to investigate a complaint against MPS regarding the CCTV footage mentioned in paragraph 13. However, rather than ask the Commissioner to investigate whether further information is held in this instance the complainant has decided to keep asking for the same information in separate requests. The Commissioner considers this to be evidence of obsessive behaviour.

22. The purpose of a request made under the Act was succinctly phrased in the aforementioned decision of *Belchamber v Information Commissioner*, in which the Tribunal stated that:

*"The proper objective of a FOIA request is the obtaining of reasonably accessible information of public importance. It is not to force the authority to change its policy through an unending battery of interrogation"*<sup>4</sup>

The Commissioner considers that this is applicable in this decision.

23. In summation, the Commissioner considers that this request is a continuation of the complainant's attempt to address his grievance and can be seen as evidence of obsessive behaviour. The Commissioner considers this adds significant weight to deciding whether the request can be refused as vexatious. However, the Commissioner will also consider the other guidance points relied upon by the MPS to determine whether there is *sufficient* evidence to support the application of section 14 to the request.

### **Is the request harassing the authority or causing distress to staff?**

24. In his correspondence with MPS the complainant has made it clear that he believes there is a conspiracy that prevents him from being reunited with his dog. In his letter of 12 January 2010 to MPS Directorate of Professional Standards he stated that:

*"We believe that there must be a reason why Croydon police have taken this defensive attitude...Croydon police may be under orders*

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<sup>4</sup> EA/2012/0165 paragraph 10

*from a third party such as [named individual A]'s father who we understand is a senior police or security services officer."*

*"a senior police officer who is a friend went to Croydon police station but said that when he mentioned [the lost dog's name] he 'hit a brick wall. His opinion was that 'there was something going on there' but that it was more than his job was worth to interfere. We agree with him and certainly we are not happy about the actions which are somewhere between unhelpful and totally dishonest."*

25. Despite not having conclusive proof that members of MPS were involved in a criminal conspiracy, the complainant has carried on in this vein with his correspondence with MPS as well as within his information requests. The Commissioner considers it reasonable that members of MPS staff would be distressed to face continued accusations of being part of a criminal conspiracy, especially when the complainant's concerns have been investigated and found to be baseless.
26. In reaching his decision the Commissioner has also considered the language and tone used in the request. It is evident from the request that the complainant is reiterating his previous allegations and making accusatory statements against MPS. The Commissioner considers this to be harassing to the authority and considers it inappropriate for a request to be worded in this way.
27. The complainant also uses the request to state that MPS will face undesirable consequences should it not comply with his request as he sees fit. The Commissioner considers that a requestor trying to use a freedom of information request to coerce a public authority with inferred threats is inappropriate.
28. Therefore, the Commissioner's decision is that the previous context in which the request was made, as well as the tone of the request itself can be considered harassing to MPS. This adds further weight to the view that this request can be refused as vexatious.

**Would complying with the request impose a significant burden in terms of expense and distraction?**

29. As previously mentioned in paragraph 12 the complainant has stated that he considers his missing dog as a lost family member and will pursue it accordingly. The Commissioner notes that at the time the request was made the complainant had been engaging with MPS for nearly three years in his attempts to be reunited with his dog.
30. The Commissioner has provided details of the lengths the complainant has gone to and the complaint processes he has exhausted before he

made this request. The Commissioner considers that these actions also show that MPS has gone to significant lengths to address the matters raised by the complainant. It is the Commissioner's view that when viewed together with the ten requests made on this issue the request in this decision can be viewed as a burden upon MPS.

31. The Commissioner considers that the continuation of correspondence between the two parties, as represented by this request, is not proportional to the issue at hand because the complainant's concerns have already been addressed. Therefore, the Commissioner's view is that, when considered in context, complying with the request would impose a significant burden in terms of expense and distraction.

### **Does the request lack any serious purpose or value?**

32. The Commissioner reiterates that he does not doubt that this is an emotive subject for the complainant. The Commissioner is also aware that the complainant has strong doubts about the conduct of MPS.
33. However, it has been made clear to the Commissioner that MPS's conduct has been examined through numerous internal investigations and by the IPCC. As such this request is an attempt to have MPS admit wrongdoings which have not been substantiated.
34. The Commissioner is also mindful of the conduct shown by the complainant in this request, as demonstrated by the harassing tone taken in the request.
35. The complainant's emotive attachment to the issue does not guarantee that there is a serious purpose to the request. As has been made clear, his concerns have been investigated and similar requests have been answered, making this request an attempt to revisit previously addressed matters. As such, the Commissioner's view is that the complainant's request can be said to lack significant value

### **Summary**

36. In making his decision the Commissioner has considered the conduct of the request by analysing its content and the context in which it was made against the different characteristic elements of vexatious requests.
37. Given the evidence of the complainant's obsession in this matter and the harassing nature of the request itself the Commissioner's decision is that MPS has a sufficient justification for refusing the request on the grounds that it is vexatious. The Commissioner does not consider that the value the complainant attaches to his requests can be seen to outweigh the evidence supporting the application of section 14. Therefore, the



Commissioner's decision is that this request is vexatious and MPS is justified in refusing it under section 14 of the Act.

## Right of appeal

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38. 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](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

39. 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.
40. 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 .....**

**Alexander Ganotis**  
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