

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 25 March 2013

**Public Authority:** Chief Constable of Warwickshire Police

**Address:** Warwickshire Justice Centre

Newbold Terrace

Leamington Spa

CV32 4EL

### **Decision (including any steps ordered)**

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1. The complainant requested various information relating to the recovery and storage of a vehicle that had been involved in an accident. Warwickshire Police (the police) refused the requests under section 14 of the FOIA as it believed that they were vexatious.
2. The Commissioner's decision is that these requests were not vexatious and so section 14 of the FOIA did not apply.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Issue a fresh response to the requests that complies with the requirements of section 1 and, if appropriate, section 17 of the FOIA.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

### **Request and response**

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5. On 7 September 2011, the complainant wrote to the police and requested information in the following terms:

*"...your definition of [an abandoned vehicle] and the guidance your Constabulary is provided in respect of such a description of a vehicle."*

*"[In relation to the complainant's client's vehicle] please provide all evidence that :*

*Warwickshire Police advised the Insured of their responsibility to contact their Insurers with details of the vehicle's whereabouts.*

*[and]*

*A party was advised of this."*

*"Please provide the average period from seizure (recovery) [of a vehicle] to examination by an examiner for all recoveries [of vehicles] since the 1<sup>st</sup> January 2009."*

*"Please advise why there was a delay in examining [the complainant's client's] vehicle."*

*"Please advise why you feel that your Constabulary's delay in examining this vehicle, that directly led to the increased charges, results in a cost that should be borne by insurers."*

*"Please provide the evidence [about statutory storage fees] to which you are referring [in previous correspondence] and the 'standard industry practice'."*

*"Please advise who attended the garage [as insurance assessor] to include the date and time."*

*"Please provide all evidence that you possess that a party acting on behalf of an insurance company attended the garage to view/inspect."*

*"Please provide a copy of the 'Standard Industry Practice' or information in support of your statement [made in previous correspondence]."*

*"...a copy of the [Recovery Agent Advice]."*

*"Please also provide all evidence in support of this advice being supplied in this instance."*

*"Please provide evidence of the action that was taken in this particular incidence i.e corroboration of the claim that such information was conveyed to insurers or their Agents."*

6. The police responded on 11 November 2011, more than 20 working days from the date of the request. It stated that the request was refused under section 14 of the FOIA as it was considered vexatious.

7. Following an internal review the police wrote to the complainant on 3 April 2012. It stated that the refusal under section 14 of the FOIA was upheld.

## Scope of the case

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8. The complainant contacted the Commissioner on 21 September 2012 to complain about the way his request for information had been handled. The complainant argued that his requests were not vexatious, rather that he was being persistent in the cause of his client. He also argued that he had been '*vindicated*' though his client having been reimbursed for the cost of vehicle storage and as a similar issue had been raised with Warwickshire Police by a third party, as reported in insurance industry media.

## Reasons for decision

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### Section 14

9. Section 14 of the FOIA provides that a public authority is not obliged to comply with an information request that is vexatious. The task for the Commissioner here is to consider whether the police accurately characterised the above requests as vexatious. An important point about section 14 is that it must be the *request* that is vexatious, not the requester.
10. The Commissioner's published guidance on section 14<sup>1</sup> specifies five factors for public authorities to take into account when considering refusing a request as vexatious.
  - i. Whether compliance would create a significant burden in terms of expense and distraction.
  - ii. Whether the request is designed to cause disruption or annoyance.
  - iii. Whether the request has the effect of harassing the public authority or its staff.

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[http://www.ico.gov.uk/for\\_organisations/guidance\\_index/~media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/vexatious\\_and\\_repeated\\_requests.ashx](http://www.ico.gov.uk/for_organisations/guidance_index/~/media/documents/library/Freedom_of_Information/Detailed_specialist_guides/vexatious_and_repeated_requests.ashx)

iv. Whether the request can otherwise fairly be characterised as obsessive or manifestly unreasonable.

v. Whether the request has any serious purpose or value.

The analysis in this notice will cover which of these five factors apply.

11. Warwickshire Police has not set out its case in detail. Instead of supplying to the Commissioner a detailed reasoning for the citing of section 14 in this case, it relied on brief reasoning given in the refusal notice and on a chronology of the complainant's correspondence with it, apparently believing this to be self-explanatory as to why the requests above were vexatious.
12. A significant part of the position of the police was that the requests above were either similar to, or were a repetition of previous requests and that either much, or all, of the information requested had been disclosed to the complainant previously. If it is the case that the requests were merely re-covering ground that had been gone over previously, this may indicate that several of the factors described above did apply. For example, it may indicate that the complainant's pursuit of these issues had become obsessive, or that the requests lacked purpose or value.
13. The chronology supplied to the Commissioner's office by the police refers to five occasions on which the complainant contacted the police in writing. The three earliest items of correspondence do not make the same requests as quoted above. The fourth item of correspondence, dated 5 September 2012, does bear similarities to the correspondence in which the requests were made. However, the view of the Commissioner is that the 7 September 2012 correspondence was a clarification of the earlier requests and an emphasising that those requests should be dealt with under the FOIA. The Commissioner does not, therefore, consider that he has been provided with evidence that the requests in question are a repetition of previous requests.
14. The police also stated that the information requested had been supplied to the complainant '*on numerous occasions*'. Again, however, the Commissioner is not aware of evidence of this information having ever been disclosed to the complainant, or at least not most of it. The Commissioner does not, therefore, accept that the requests were either obsessive or lacked serious purpose or value on the basis that these were a repetition of earlier requests, or that the information requested had been supplied to the complainant previously.
15. The police argued that the volume of correspondence it had received from the complainant, and the content of some of this correspondence,

indicated that the requests were part of a series of correspondence that was harassing to the police. It also argued that a particular staff member had been harassed through this correspondence.

16. On the issue of the volume of correspondence, the Commissioner simply does not agree that this has been sufficiently high that this has constituted the complainant causing harassment to the police, or any individual employee of the police. The evidence supplied to the Commissioner was that the complainant had written to the police five times over the course of three months. The Commissioner is of the view that this is not of sufficient duration or intensity for it to constitute harassment.
17. As to the language used in this correspondence, the Commissioner notes that a small minority of this does stray beyond what would generally be considered businesslike, but that this is not the case for the majority of the correspondence. In any event, the Commissioner would not accept that what amounts to mild criticism of the police could be said to constitute harassment.
18. When considering the issue of whether a request would impose a significant burden, it can be relevant to consider whether compliance with the request in question would be likely to lead to further requests and correspondence. In this case the Commissioner believes that the pattern of the complainant's behaviour indicates that this is likely to be the case. However, this will not necessarily be a ground in itself to find that a request is vexatious, particularly where there appears to be a serious purpose to a request.
19. In correspondence with the Commissioner's office the police have stated that they do not believe that the request has a serious purpose other than as part of an attempt to have the charges levied on the client of the complainant for the storage of their vehicle rescinded. The complainant agrees that this does appear to be the ultimate purpose of the complainant, but rather than finding that this is a basis on which to conclude that the requests lack a serious purpose, believes that this indicates that the complainant does have a serious purpose in continuing to correspond with the police.
20. In conclusion, whilst the Commissioner agrees that the requests are likely to lead to the burden of further correspondence from the complainant upon the police, the Commissioner does not believe that the correspondence from the complainant, until this point at least, has lacked purpose or value. Neither does the Commissioner believe that the behaviour of the complainant in his correspondence with the police is indicative that any of the other factors for a request to be vexatious are met.

21. For these reasons, the Commissioner finds that the complainant's requests were not vexatious and, therefore, section 14 did not apply. At paragraph 3 above Warwickshire Police is required to comply with these requests.

### **Other matters**

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22. As noted above, the police failed to respond to the complainant's requests within 20 working days of receipt. Warwickshire Police must ensure that all information requests are responded to within 20 working days from receipt. A record of this delay has been made and this issue may be revisited should the Commissioner become aware that this is a recurring problem.

## Right of appeal

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23. 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)

24. 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.
25. 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**