

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

### **Decision notice**

**Date:** 4 July 2013

**Public Authority:** The Chief Constable of Cambridgeshire Constabulary

**Address:** Constabulary Headquarters  
Hinchingsbrooke Park  
Huntingdon  
PE29 6NP

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

---

1. The complainant requested information about Cambridgeshire Constabulary's ("the Constabulary") conclusion that certain allegations he had made which it had investigated revealed no evidence of criminal behaviour. He also requested information about its assertion that it had considered charging him with wasting police time. The Constabulary refused the request under section 14(1) of the FOIA as it considered it vexatious. The Commissioner's decision is that the requests are vexatious and that section 14 was applied correctly. The Constabulary is therefore not obliged to comply with the request.

#### **Background**

---

2. The complainant has been in dispute with the Constabulary since 2011 over a series of allegations he made of fraud, breach of trust and theft relating to the administration of an elderly relative's financial affairs. The allegations hinged around the redrafting of wills and the withdrawal of money using an Enduring Power of Attorney.
3. The Constabulary investigated his allegations. On 12 April 2011 it informed the complainant that no further police action would be taken as no criminal acts had been uncovered by its investigations. The complainant was not satisfied with the Constabulary's investigations and made formal complaints to its Professional Standards Department ("PSD"). The PSD's investigations concluded that his allegations had been properly investigated and had uncovered no evidence of criminal wrongdoing. A copy of its report was provided to the complainant.

4. The complainant then exercised his right of appeal to the Independent Police Complaints Commission ("the IPCC"). The IPCC determined that one of his complaints to the PSD required further investigation. The PSD duly re-investigated the complaint but its conclusion remained that the original allegation had been properly investigated.
5. The complainant continues to dispute that his original allegations were properly investigated. He claims that High Court action in relation to the will is currently ongoing.

## Request and response

---

6. On 24 November 2012, the complainant wrote to the Constabulary and, referring to a letter he had received from Assistant Chief Constable Hopkins, requested the following information:

*"Please provide me, on a CD ROM, with all the recorded good quality (accurate, valid, reliable, timely, relevant and complete) recorded data (legal documents, emails, letters, contemporaneous telephone notes and internal communications) relied on by ACC Hopkins to arrive at two (2) decisions and I quote those 2 decisions from his letter dated 2 April 2012:*

- 1. I am aware that you have made a number of criminal allegations against a variety of individuals and agencies in connection with your late mother-in-law and her estate, which have been investigated by [names redacted]. I understand that none of these investigations have revealed any criminal behaviour.*
  - 2. Moreover I am aware that the allegations made by you against [name redacted] of NHS Cambridgeshire and [name redacted] from Huntingdon District Council were deemed to lack any substance and that officers have considered bringing proceedings against you for wasting police time."*
7. The Constabulary responded by email on 30 November 2012. It stated that it considered the request to be vexatious and therefore covered by section 14(1) of the FOIA. Its reason for considering the request vexatious was that there was no serious purpose or value to the questions, as they "covered the same ground" as another FOIA request submitted contemporaneously by the complainant, which it also deemed vexatious.

8. Following an internal review the Constabulary wrote to the complainant on 20 December 2012, upholding its decision. The complainant maintains that he did not receive this letter.

### **Scope of the case**

---

9. The complainant contacted the Commissioner on 15 January 2013 to complain about the way his request for information had been handled. He stated that despite several requests, he had not received an internal review in respect of the request and asked the Commissioner to pursue this with the Constabulary. He stated that the information he had requested was urgently required for submission as evidence in relation to two High Court claims.
10. During the course of the investigation the Constabulary supplied a copy of the internal review outcome letter of 20 December 2012 to the Commissioner and could provide no explanation for why it might not have been received by the complainant. The Commissioner forwarded a copy of the letter to the complainant. He does not consider it to be a productive use of resources to devote further consideration to whether the letter was received, and simply notes that the Constabulary and the complainant remain in dispute about this.
11. The Commissioner examined the request and related correspondence from the complainant.
12. This decision notice addresses the Commissioner's consideration of the complainant's request as vexatious under section 14(1) FOIA. The complainant's other request, referred to in paragraph 7, is dealt with in a separate decision notice under reference FS50479480. In that case the Commissioner upheld the Constabulary's application of section 14(1) to designate the request as vexatious. This decision notice should be read in conjunction with that notice.

### **Reasons for decision**

---

13. Section 14(1) of FOIA states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious. There is no public interest test.

14. The term "vexatious" is not defined in the FOIA. The Upper Tribunal recently considered the issue of vexatious requests in the case of the *Information Commissioner v Devon CC & Dransfield*<sup>1</sup>. The Tribunal commented that vexatious could be defined as the "*manifestly unjustified, inappropriate or improper use of a formal procedure.*" The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.
15. In the Commissioner's view, the key question for public authorities to consider when determining if a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
16. The Commissioner has identified a number of "indicators" which may be useful in identifying vexatious requests. These are set out in his published guidance on vexatious requests<sup>2</sup>. The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of a case will need to be considered in reaching a judgement as to whether a request is vexatious.
17. The Constabulary identified that, when considered in conjunction with the Constabulary's wider correspondence with the complainant (including the similar FOIA request, referred to in paragraph 7 and submitted contemporaneously to the Constabulary) the request was obsessive. In view of this the Constabulary considered that dealing with the request was likely to cause a disproportionate and unjustified level of disruption, irritation and distress and that it was therefore vexatious.
18. The Commissioner has considered the Constabulary's finding of the request as "obsessive".

---

<sup>1</sup> GIA/3037/2011

<sup>2</sup>

[http://www.ico.org.uk/~media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/dealing-with-vexatious-requests.ashx](http://www.ico.org.uk/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx)

### **The request is obsessive**

19. The Commissioner would characterise an obsessive request as one where the requester is attempting to reopen an issue which has already been comprehensively addressed by the public authority, or otherwise subjected to some form of independent scrutiny.
20. In the Commissioner's view, the test to apply here is reasonableness. Would a reasonable person describe the request as obsessive in the circumstances? For example, the Commissioner considers that although a request in isolation may not be vexatious, if it is the latest in a long series of overlapping requests or other correspondence then it may form part of a wider pattern of behaviour that makes it vexatious.
21. The Commissioner accepts that at times there is a fine line between obsession and persistence and although each case is determined on its own facts, the Commissioner considers that an obsessive request can be most easily identified where a complainant continues with the request(s) despite being in possession of other independent evidence on the same issue. However, the Commissioner also considers that a request may still be obsessive even without the presence of independent evidence.
22. In this case, the Constabulary explained that the request was the latest in a series of similar requests received from the complainant over a prolonged period, which attempt to re-open concluded criminal investigations which have already been thoroughly investigated.
23. As set out in the "*Background*" section of this decision notice, the complainant has had his concerns about the conclusions of the original investigations considered by the PSD, and then externally reviewed by the IPCC. Neither resulted in any change to the decision that the allegations revealed no evidence of criminal wrongdoing.
24. The Constabulary stated that the complainant has received, in writing, the conclusions reached by the original investigations, the PSD reviews and the IPCC reviews. Therefore, the Constabulary maintains that the complainant has received the information he is requesting in the first question, several times. It argues that he is not justified in causing the level of disruption that he does in repeatedly requesting the information (and which experience indicates he will continue to ask for) and that the impact of his requests on the Constabulary is disproportionate to the likelihood of criminal activity having occurred.
25. With regard to the request's second question, the Constabulary had investigated the complainant's allegations about the named employees of Cambridgeshire NHS and Huntingdon District Council and again found no evidence of criminal behaviour. The complainant had been informed

of this and given the reasons for the decision. The Constabulary had pointed to the fact that the complainant has so far made seven separate criminal allegations, none of which have been upheld. It therefore considers that the purpose of this question is not for the complainant to understand the reasons why the Constabulary might have contemplated taking action against him, but so that he may continue to challenge the Constabulary's investigation of his allegations.

26. Although the Constabulary has not raised it, the Commissioner also notes that the complainant submitted a complaint to the PSD that ACC Hopkins had abused his authority and behaved in a "*discreditable, unfair and intolerant way*" by virtue of the comments made in his letter of 2 April 2012 (the letter to which the FOIA request refers). The PSD formally investigated and did not uphold the complaint.
27. The complainant maintains that he requires the requested information for submission as evidence in High Court proceedings involving the will. The Constabulary has advised the complainant how to obtain a court order for any information necessary for court action (as has the ICO). It had also explained that access to certain information would be covered by the Data Protection Act 1998 ("the DPA") rather than the FOIA. To the Constabulary's knowledge, the complainant has pursued neither option (it stated that he had said he was not prepared to pay a £10 subject access fee to receive information under the DPA).
28. The Constabulary stated that the complainant has submitted at least five FOIA requests and in excess of forty letters during 2012 on matters pertaining to its investigation of his allegations. Dealing with the correspondence has considerable resource implications for the Constabulary. However, of more concern is the frequency and length of his telephone calls, which have sometimes been received several times a day and may last up to 40 minutes. The Constabulary has described them as often "taunting" in tone and frequently lacking structure or focus. Staff members have reported dealing with them to be stressful, as the complainant's attitude can be somewhat combative and he frequently expects to discuss specific legislation in some detail. In one case, the stress of dealing with the complainant's repeated calls led to a member of staff taking a period of sick leave. The Constabulary has provided the Commissioner with notes of particular telephone calls in support of this claim.

### **The Commissioner's decision**

29. While the allegations referred by the complainant to the Constabulary in 2011 are serious, the Commissioner considers that he has provided no evidence which supports his contention that they were not properly

investigated. Against this, the Commissioner notes that his complaints to the PSD and the IPCC (and also, he claims, two local councils) have not resulted in his original allegations of criminal behaviour being re-investigated.

30. It is not for the Commissioner to determine whether the matters which the complainant originally referred to the Constabulary revealed criminal behaviour. However, the number of reviews that those investigations have subsequently been subject to, with no change to their findings, suggests that the intensity of the complainant's approaches to the Constabulary is disproportionate to the probability of criminal wrongdoing with regard to the will.
31. In this case, taking into account the context and background to the request, in conjunction with the volume of telephone calls and correspondence to the Constabulary relating to the closed investigations, and the fact that complaints to third parties have not resulted in a decision to re-open the investigations, the Commissioner considers that the complainant's persistence in making related requests to the Constabulary has reached the stage where it could reasonably be described as obsessive.
32. The complainant has a clearly held belief that criminal offences have been committed; however, his reluctance to accept, after thorough investigation and several reviews, that no evidence of criminal wrongdoing has been uncovered by the police investigations has severely limited the serious purpose and value of his request. In addition, the Commissioner considers that the complainant's failure to use the appropriate channels to obtain information in connection with court action further reduces the seriousness of the purpose. The disclosure of the requested information (if held) under the FOIA, to the world at large, would clearly not be in the public interest as it would contain sensitive personal data of third parties. It would in all likelihood be exempt from disclosure under section 40 of the FOIA.
33. The complainant has exhibited an intention to use the FOIA as a vehicle to place pressure on the relevant authorities to reconsider the original allegations under criminal law. Although the Commissioner recognises the complainant's depth of conviction regarding this point, such an approach would appear to amount to an abuse of section 1 of the FOIA, one which resonates with the Tribunal's definition of vexatious as "*manifestly unjustified, inappropriate or improper use of a formal procedure.*" .
34. In this case the Commissioner does not consider that sufficient weight can be placed on any serious purpose served by the complaint to overcome the disproportionate burden of disruption, irritation and

distress it imposes on the Constabulary and its individual members of staff.

35. The Commissioner therefore considers that the Constabulary is entitled to rely on section 14(1) to refuse the request on the grounds that it is vexatious.



## Right of appeal

---

36. 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)

37. 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.
38. 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**