

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 May 2013

Public Authority: Chief Constable of North Yorkshire Police
Address: Police Headquarters
Newby Wiske Hall
Northallerton
North Yorkshire
DL7 9HA

Decision (including any steps ordered)

1. The complainant made various information requests stemming from his dissatisfaction with the actions of North Yorkshire Police (NYP) in relation to a family dispute. NYP did not respond to these requests on the grounds that they were vexatious under section 14(1) of the FOIA and, as the complainant had been advised that previous requests made by him were vexatious, it would have been unreasonable to expect it to respond with a further refusal notice.
2. The Commissioner's decision is that the complainant's requests were vexatious and so NYP was not obliged to comply with these. The Commissioner also finds that under section 17(6) of the FOIA NYP was not obliged to provide any response to these requests as it would have been unreasonable in the circumstances to expect it to do so.

Request and response

3. The requests made by a representative of the complainant and the dates of these were as follows:

20 October 2011:

"The full name of [name redacted] and his or her sex.

The full name and police number of the [name redacted] that was recently arrested for fraud by North Yorkshire Police and confirmation of which station he/she worked at.

The name of the Police Officer that sent the attached e mail, thought to be [name redacted].

The name of the officer that made the telephone call referred to in the attached note, thought to be [name redacted]."

23 October 2011:

"How many requests for assistance to Interpol [name redacted] has made since he took up his present appointment".

1 May 2012:

"Release the report into the burglary at (address redacted)."

"Provide the emails you allege [name redacted] sent that are referred to in the harassment warning"

4. NYP did not respond to these requests.

Scope of the case

5. The complainant contacted the Commissioner on 9 June 2012 to complain about the failure of NYP to respond to the above requests. At this stage the complainant stated that the individual who had made the above requests was authorised to act on his behalf and later provided documentation as evidence for this.
6. The correspondence of 20 October 2011 included further requests for information in addition to those quoted above. Upon receipt of this complaint it was established that some of those requests were for the personal data of the complainant and, therefore, that those requests should have been dealt with under section 7 of the Data Protection Act 1998 (DPA).
7. In relation to the requests for the complainant's personal data, an assessment was carried out under section 42 of the DPA. The complainant was advised of the outcome of that assessment by correspondence dated 25 January 2013. He was also advised at that stage of which requests were covered by that assessment and that his remaining requests would be covered in a separate investigation carried out under section 50 of the FOIA. This notice is the outcome of that investigation.

8. During the correspondence in the DPA assessment case, NYP confirmed that it had received the information requests set out above, but stated that it had not replied to these on the basis that they were vexatious. This explanation implicitly confirmed that the position of NYP was that section 17(5) of the FOIA provided that it was not required to respond to these requests. The analysis in this notice therefore covers whether the above requests were vexatious and whether NYP was permitted under section 17(5) to not respond to these requests.
9. A significant period of time has elapsed since the making of the requests and the date of this notice. However, given that there was no significant delay between the making of the most recent requests and the complainant initially contacting the ICO, this complaint was accepted as valid.

Reasons for decision

Section 14

10. 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 Council 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, although the context of any wider dealings between the complainant and the public authority may be relevant.
11. The Commissioner's published guidance on section 14¹ 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.

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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)

- iii. Whether the request has the effect of harassing the public authority or its staff.
- 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.

- 12. Where there are references to 'the complainant', these may relate to either the complainant, or to the third party who made the requests in this case and whom the complainant has confirmed was acting on his behalf and in concert with him. For the purposes of this notice correspondence sent by either of these individuals to NYP is treated as having come from the same source.

Would compliance with the requests create a significant burden?

- 13. NYP argued that the volume of requests and related correspondence imposed a significant burden on it. The approach of the Commissioner is that where a public authority is primarily concerned with the cost of compliance with a request, or series of requests, it is more appropriate for it to cite section 12, which concerns the cost of requests. However, where a public authority is concerned about a burden imposed in terms of both cost and distraction from its core business, this may be relevant to section 14.
- 14. NYP has stated that its correspondence with the complainant stems from a family dispute that it first became aware of in 2008. It is evident from this correspondence that the complainant is dissatisfied with the actions of NYP in relation to that dispute. NYP has stated that, since 2008, it has received in excess of 1,000 items of correspondence from the complainant. It has provided to the Commissioner's office a sample of this correspondence. This sample confirms that the complainant has written to NYP very frequently over a period of several years. A significant number of the individual communications supplied to the ICO each contained multiple information requests, indicating that the total number of information requests made to NYP by the complainant was extremely high.
- 15. As well as the large number of information requests, the Commissioner notes that the correspondence is unfocussed and wide ranging. Whilst the starting point for this correspondence was the complainant's family dispute, the correspondence is not restricted to issues relating to that. In the absence of a specific focus to this correspondence, it appears unlikely that the provision of a response to the requests in question would conclude this correspondence.

16. The Commissioner believes that this volume of requests and other correspondence is indicative of a pattern in the behaviour of the complainant whereby each response received by the complainant from NYP leads to more requests and other related correspondence. Indeed, given that the complainant has continued to correspond with NYP in the absence of responses from it, it appears to be the case that there is little that NYP can do in response to his numerous communiqués that could curb his behaviour.
17. Within the context of the volume of previous requests and other correspondence received by NYP from the complainant, and the likelihood that a response to the requests in this case would, rather than resolving this matter, lead to further requests and correspondence, the view of the Commissioner is that these requests do pose a significant burden upon NYP. This burden is in the form of time spent on dealing with the complainant and results in distraction from the core work of NYP.

Were the requests designed to cause disruption or annoyance?

18. This factor will apply where the request is purposefully designed to cause disruption or annoyance; it will not apply where this is an unintended consequence of the request.
19. Whilst NYP has argued that the volume and abusive nature of some of the complainant's other correspondence indicates that these were designed to cause annoyance, this notice concerns the requests quoted above. Whilst, as covered below, the complainant has been guilty of some entirely inappropriate behaviour in his dealings with NYP, this does not mean that the requests in this case were specifically intended to cause disruption or annoyance. The Commissioner does not, therefore, find that this factor applies.

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

20. NYP has referred to the volume of correspondence it has received from the complainant and to the content of some of it. It believes that in the context of these factors the requests in question do have the effect of harassing it.
21. The view of the Commissioner is that it is clear that the complainant's behaviour has had the effect of harassing both NYP as a whole and specific individuals within it. As well as the grossly excessive volume of correspondence sent by the complainant to NYP, he has also posted content on websites making allegations about wrongdoing by NYP, and specific individuals within NYP.

22. Within the correspondence provided by NYP to the ICO are examples of correspondence in which the complainant directs highly offensive accusations towards staff members within NYP. It is clear from the content of these that the intention of the complainant was to offend these staff members to the maximum possible extent.
23. As well as this wider context, some of the requests in this case are for information relating to named individuals within NYP. Given the pattern of the previous behaviour of the complainant, the view of the Commissioner is that these requests may well form part of a wider campaign of harassment by the complainant against those named individuals.
24. In light of the wider context of the complainant's behaviour, specifically the volume of his correspondence, his posting of accusations online and the highly and deliberately offensive nature of some of his correspondence, the view of the Commissioner is that the requests in question are a continuation of these actions and as such do cause harassment to both NYP as a whole and to specific individuals within NYP. Even separately from this wider context, some of the requests in question are for information relating to individuals and have the effect of harassing those individuals.

Can the requests fairly be characterised as obsessive or manifestly unreasonable?

25. The question here is whether, whatever legitimate reason the complainant may have had for his correspondence initially, he has pursued this issue past the point that could be considered reasonable. Clearly the volume of correspondence is an issue here. Whilst there may initially have been a worthwhile purpose to the complainant communicating with NYP, pursuing this issue through over 1,000 items of correspondence and over the course of several years, with no indication of when this behaviour may end, is strongly suggestive of obsessive behaviour. That the complainant has evidently felt justified in sending to NYP correspondence of an abusive nature and to make his accusations public via the internet is also suggestive that obsession has eroded his ability to regulate his own behaviour.
26. The view of the Commissioner is that the volume of correspondence and the content of some of it, combined with his other behaviour, suggests that the complainant has pursued his issue with NYP beyond what could be considered to be a reasonable extent. That he continues to pursue this with no sign that he is likely to reach the stage of being satisfied and desisting from this pursuit indicates that these requests can be characterised as obsessive.

Do the requests have any serious purpose or value?

27. Amongst the results of the complainant's behaviour is that his purpose in making these requests has become obscured. It appears that he is seeking evidence in support of his general grievance with NYP, but the precise nature of and grounds for that grievance are also difficult to discern.
28. Taking the wording of the requests in isolation, the Commissioner can see some value in his requests of 1 May 2012. These relate to his core concerns that were the trigger for his correspondence.
29. In relation to the other requests, what serious purpose or value these may have is more difficult to establish. These appear to be a manifestation of a more general drift on the part of the complainant away from the core of his concerns and towards his generalised grievance with NYP. Also, given the behaviour of the complainant in targeting individuals within NYP for abuse, NYP is entitled to question whether asking for information about named individuals is part of a furtherance of that trend. For these reasons, the Commissioner does not believe that the requests of 20 and 23 October 2011 have serious purpose or value.

Conclusion

30. Whilst the Commissioner has found that some of the complainant's requests appear to have a serious purpose, this is not necessarily a basis on which to find that these requests were not vexatious. Instead it is a factor to balance against the other factors covered above.
31. The Commissioner is of the opinion that the overall behaviour of the complainant towards NYP has clearly been vexatious. The basis for this opinion is the volume of correspondence that has passed between the complainant and NYP, as well as the highly and intentionally offensive nature of some of this. The view of the Commissioner is that the requests in question are part of this pattern of behaviour and that any response provided by NYP to these requests would be highly likely to perpetuate this behaviour. His conclusion is that these requests were vexatious under section 14(1) of the FOIA and so NYP was not obliged to comply with them.

Section 17(6)

32. Section 17(6) provides that a public authority is not required to issue a response to an information request that is vexatious where the requester has previously been informed that a request made by them is vexatious and it would be unreasonable to expect the public authority to respond again with a similar refusal notice. In this case NYP did not

respond to the complainant's requests and the Commissioner has considered whether it would have been unreasonable to have expected it to do so.

33. NYP has supplied a copy of letters sent to the complainant on 6 July 2010 and 25 July 2011 which, amongst others, informed the complainant that previous requests made by him were being refused as vexatious. As to whether it would have been unreasonable to have expected NYP to provide further responses to the requests in question, the Commissioner has again taken into account the volume of correspondence, which has included a great many information requests, sent from the complainant to NYP.
34. He recognises that responding to each of the complainant's information requests with a section 14(1) refusal notice would have been burdensome. He also notes that all of the complainant's requests, whilst varied in subject matter, stemmed from the same core concern of the complainant. The complainant would have been well aware from the section 14(1) refusal notices that were previously sent that NYP regarded the continued pursuit of those issues via FOIA requests as vexatious. The Commissioner accepts that in these circumstances section 17(6) did provide that NYP was not required to respond to the requests in question.

Right of appeal

35. 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

36. 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.
37. 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

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