

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 April 2015

Public Authority: Chief Constable of Staffordshire Police
Address: Weston Road
Stafford
ST18 0YY

Decision (including any steps ordered)

1. The complainant requested information about property owned, or previously owned, by Staffordshire Police. Staffordshire Police refused the requests on the grounds that they were vexatious under section 14(1) of the FOIA.
2. The Commissioner's decision is that the complainant's requests were vexatious meaning that section 14(1) provided that Staffordshire Police was not obliged to comply with them.

Request and response

3. On 26 June 2014, the complainant wrote to Staffordshire Police and requested information concerning property owned, or previously owned, by Staffordshire Police in the following terms:

"Crossfields stood in a large plot on which horses were grazed. Some of this land was sold for housing. Please give the year of sale and price achieved."

"Please give the size of the original [Weston Road] site, built for the Central Traffic Group.

Please give the size of the additional land later acquired."

4. Staffordshire Police responded on 21 July 2014. The requests were refused, with section 14(2) (repeat requests) cited. That response also,

however, made reference to these requests being vexatious, suggesting that section 14(1) was also relied upon.

5. The complainant requested an internal review and Staffordshire Police responded with the outcome of the review on 30 September 2014. The refusal of the requests was upheld. The wording of that response suggested that Staffordshire Police was at that stage citing section 14(1) and refusing the complainant's requests as they were believed to be vexatious.

Scope of the case

6. The complainant contacted the Commissioner on 5 October 2014 to complain about the refusal of his information requests. At this stage the complainant described the background to his requests and indicated that he did not agree with the reasoning given by Staffordshire Police for the refusal of those requests.
7. During the investigation of this case, Staffordshire Police was asked to clarify whether it was relying on section 14(1) (vexatious requests) or 14(2) (repeated requests). As covered above, its correspondence with the complainant had not been clear on this point.
8. Staffordshire Police confirmed that it was relying on section 14(1) and, therefore, the analysis below concerns whether Staffordshire Police was correct to refuse the complainant's requests on the grounds that they were vexatious.

Reasons for decision

Section 14

9. Section 14(1) of the FOIA provides that a request may be refused if it is vexatious. The approach of the Commissioner, as set out in his guidance on this provision¹, is that the key question to ask when considering whether a request can be accurately characterised as vexatious is

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[http://www.ico.org.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx](http://www.ico.org.uk/for_organisations/guidance_index/~/media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx)

whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.

10. Where it is relevant to do so, a public authority may take into account the context and history preceding the request. This means that a request may be vexatious when made by one person and not vexatious when made by another person.
11. In this case Staffordshire Police has relied on the history of its dealings with the complainant when justifying its refusal of this request. The reasoning of Staffordshire Police and the Commissioner's analysis of this is as follows.
12. Staffordshire Police has stated that the "*catalyst*" for the complainant's requests was the reduction of his police injury award pension. Whilst his information requests concern the move by Staffordshire police to new headquarters and the use made of the old site, the argument made by Staffordshire Police appears to be that he is making requests on that subject with the intention of pressuring it over the issue of his pension.
13. The Commissioner's guidance lists a number of indicators of vexatious requests. Whilst the grounds upon which a request may be considered vexatious are not limited to these indicators, the Commissioner has used these as a framework for his analysis here. As the case made by Staffordshire Police is that the complainant is seeking to use the FOIA to pursue a wider issue rather than genuine interest in the information requested, the factors from this guidance that are relevant here are:
 - No obvious intent to obtain information
 - Disproportionate effort
14. The first issue to cover here is whether the Commissioner agrees with Staffordshire Police that the complainant had an ulterior motive when making these requests, rather than his primary interest being disclosure of the requested information. On this point the Commissioner notes that the complainant rehearsed the history of his pension dispute with Staffordshire Police when making his complaint to the ICO. He also notes that in a letter to Staffordshire Police of 16 March 2014, the complainant referred first to his pension issue, before stating the following and requesting information about the HQ move:

"If you all wish to play silly games, then I will ask questions under the freedom of information act."
15. The Commissioner takes this as evidence that the complainant is not primarily interested in the information he has requested. This factor is

relevant here in that the complainant appears to be using the FOIA as a means to pursue his wider issue with the Police.

16. The Commissioner considers that, whilst it may not be the case that the complainant lacked *any* intention to obtain information, he was clearly more interested in the reconsideration of his pension than he was in the information requested in this case. The Commissioner furthermore believes that at least part of the aim of the complainant in making this request was to harass and pressure Staffordshire Police with the intention of changing its position on his pension.
17. As to whether complying with the request would require disproportionate effort on the part of Staffordshire Police, the issue here is whether the matter being pursued by the complainant is of proportionate significance to the effort expended by Staffordshire Police. It is relevant to take into account here the effort expended by the Police on dealing with previous requests from the complainant and on any further work that may result through compliance with the request in question.
18. The Commissioner is aware from the materials supplied to his office by the complainant and by Staffordshire Police that the complainant has made additional information requests to Staffordshire Police to those set out above. Whilst it is unlikely that compliance with the specific requests quoted above would require a great effort on the part of the Police, the Commissioner notes that the complainant has made other requests to the Police, all stemming from the same issue. The Commissioner has also taken into account that the pattern of the complainant's behaviour suggests that providing a response to the requests above would be unlikely to result in a cessation of his requests. Instead, it is likely that the complainant will continue to make requests in future. The burden of dealing with these likely future requests has also been taken into account here.
19. Given that it appears likely that the complainant will continue to make information requests on the same issue to Staffordshire Police, the burden of dealing with the complainant's previous requests, combined with the burden of the probable future requests, is likely to be considerable. However, the question here is whether the effort that it would be necessary to expend on those requests would be disproportionate. If, for example, the requests in question may lead to the disclosure of information that it would be in the public interest to disclose, it could be argued that the effort in complying with those requests would be proportionate. Therefore, the Commissioner has considered what value the requests in question here could be said to have, and similarly whether the wider issue being pursued by the complainant could be said to be of importance.

20. On the issue of what value these requests have, the Commissioner's view is that this is limited. Whatever value the wider issue that the complainant is pursuing could be said to have, the requests in this case, in common with some of his other requests, are for relatively minor details that relate to that issue.
21. As to whether the wider issue is of importance, the complainant's requests relate to the issue of the move by Staffordshire Police to new headquarters. Brief research reveals media coverage that suggests that this has been an issue of comment and some controversy, which means there may be a strong public interest in information on this issue and, in turn, this may mean that it would be proportionate for Staffordshire Police to expend effort on requests about this issue. However, the Commissioner does not believe that this means that it would be proportionate for Staffordshire Police to expend significant effort on the complainant's requests owing to the complainant's tendency to make requests that focus on arcane detail, rather than more substantive matters.
22. In conclusion, the Commissioner's view is that the complainant made his requests for the primary purpose of an ulterior motive and that complying with the requests in question in this notice combined with the previous and likely future requests made by the complainant would require disproportionate effort by Staffordshire Police. For these reasons the Commissioner finds that the complainant's requests were vexatious and so section 14(1) of the FOIA provided that Staffordshire Police was not obliged to comply with them.

Other matters

23. As referred to above, when responding to the complainant and initially when in correspondence with the ICO, Staffordshire Police appeared unclear on the distinction between subsections 14(1) (vexatious requests) and 14(2) (repeat requests) of the FOIA. When considering citing section 14 in future, it should ensure that it understands the distinction between these subsections and is clear both internally and when responding to the requester about which of these provisions it is citing.

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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

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

Rachael Cragg
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