

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 March 2017

Public Authority: Chief Constable of Humberside Police
Address: Priory Road
Kingston Upon Hull
HU5 5SF

Decision (including any steps ordered)

1. The complainant has requested from Humberside Police information about instances of refusal to act on alleged crimes, notably allegations of perjury, reported to them. He also asked for the cost to the police force of employing its solicitor.
2. The Commissioner decided that Humberside Police had acted correctly in relying on the section 14(1) (vexatious requests) FOIA exemption to refuse the requests. The police did not respond within 20 working days of receiving four of the requests and in so doing breached the requirements of sections 10(1) (time for compliance) and 17(1) (refusal of request) FOIA.
3. The Commissioner does not require Humberside Police to take any further steps to comply with the legislation.

Requests and responses

4. The request arose out of correspondence about a dispute of long standing between the complainant and Humberside Police (the police). The matters relate to the alleged non-payment of council tax by the complainant and to an application by a local authority for a Liability Order against him. The police regard these as civil matters but the complainant says that they are criminal matters and that the police have therefore not proceeded correctly.
5. Request 1 (ICO case FS50622654) was made on 3 December 2015:

A letter sent presumably towards the end of 2013 (see above link) but with almost certainty after 8 November 2013, deals with a response from the force's Economic Crime Unit's refusing to act on evidence of North East Lincolnshire Council abetting its bailiff contractor to defraud residents whilst enforcing alleged council tax debt.

I would like all the information held by Humberside police relating to the investigation that led to the decisions outlined but had nothing backing them up.

6. Request 2 (ICO case FS50636574) was made on 9 May 2016:

This request relates to an innocent member of the public being stitched-up with the suspected motivation being that the victim had got on the wrong side of the police by highlighting matters for which the force is complicit in substantial fraud.

A complaint was made about [name redacted] on 8 November 2015, as it was suspected that this officer had incited witnesses (who had lied) to commit perjury, but six months on there is no outcome.

Please disclose records held by the force relating to this matter.

7. Request 3 (ICO case FS50636604) was made on 7 March 2016:

I would like disclosing who or what department has dealt with or will be dealing with the crime, in relation to the report submitted 29 February 2016, below:

"I hold evidence in the form of two witness statements dated 27 August and 1 September 2015 produced by [names redacted] about which there is no question that they contain outright lies.

As a consequence I wish to formally report crimes in the matter of perjury with regards to the witness statements produced by [names redacted] as they contain evidence that both witnesses have wilfully perverted the course of justice by means of false and corrupt statements.

8. Request 4 (ICO case FS50637739) was made on 23 December 2016:

Please disclose any policy Humberside police holds which relates to fabricating evidence, turning blind eye to false witness statement, inciting witnesses to commit perjury etc. etc., in order

to defraud an innocent person with financial penalties through the criminal justice system.

9. Request 5 (ICO case FS50650239) was made on 9 February 2016:

1) How much taxpayer's money is paid to the force's solicitor for the purposes of perverting the course of justice, i.e., avoiding crime committed by, or on behalf of the state?

2) As the case used in the example showed total incompetence, can it be confirmed that Humberside police's solicitor is the same solicitor with the 'so called' independence status as per the force's "Duty Solicitor"?

10. The complainant made his information requests via the WhatDoTheyKnow.com website (WDTK) and included background information about the matters.

11. The requests followed a long history of information requests and other correspondence with the police on matters arising from a long standing police decision to regard as civil matters, issues that the complainant considers to be criminal.

12. On 16 November 2016, the police told the Commissioner that they had applied section 14(1) FOIA to each of the requests and refused to comply with them. The police said that these and other closely connected requests were imposing an unreasonable burden on the force, adding that the requests showed unreasonable persistence and overlapped with other requests to the point that they were vexatious.

Scope of the case

13. The complainant wrote to the Commissioner to complain about the police failure to respond to requests 1 – 4 and about the response made to request 5 on 24 March 2016, 6 July 2016, 15 May 2016, 13 July 2016 and 25 September 2016 respectively. He complained about the way his requests for information had been handled. He said that the police considered his requests for information were intended to cause them annoyance and disruption which he disputed and said that they had a serious purpose.

14. In her investigation, the Commissioner has considered each request separately and individually. She considered the police reliance on section 14(1) FOIA to refuse each of the requests. In doing so she considered representations from both parties, and noted the relevant WDTK entries.

She had regard for the history of the connected requests and other correspondence to the police from the complainant. Having considered each request individually her reasoning when determining each of these matters has proved to be identical for each. Accordingly the Commissioner has used a single Decision Notice to issue her decision in each matter.

Reasons for decision

Section 14 - vexatious or repeated requests

15. Section 14(1) FOIA provides that a public authority is not obliged to comply with a request that is vexatious.
16. Consistent with an Upper Tribunal decision which established the concepts of 'proportionality' and 'justification' as central to any consideration of whether or not a request is vexatious, the Commissioner's guidance ¹ on section 14(1) FOIA is that the key question to ask when determining whether or not a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
17. Where information requests impose a significant burden on them, the Commissioner considers that public authorities should weigh the impact of the request on the authority and balance this against the purpose and value of the request. In addition, where relevant, public authorities should take into account wider factors such as the background and history of the request.

The complainant's view

18. The complainant told the Commissioner that, for a number of years, he has been engaged in matters relating to what he described as fraud, committed by a local authority and its agents to recover monies which the local authority claims are due for arrears of council tax and compliance related payments. He said that the police had refused to record his concerns as criminal instead of civil matters. He said he had

¹ <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

suffered gross injustice at the hands of the police and considered that his information requests therefore had a serious purpose.

19. The complainant said that the police had refused to investigate his allegations of criminality despite his concerns about the large sums of money involved. He said the position of the police was that the matters alleged did not warrant action. He said he had submitted complaints about the police 'turning a blind eye' to the frauds he alleged; the police had shown no signs of accountability, appearing to conduct themselves without any standard or duty to the taxpayer.
20. The complainant speculated that police forces were under pressure to ensure that no cases were pursued that might impact negatively on the collection of taxation revenues. He said that this had resulted in his allegations of fraud being 'brushed under the carpet'; the police had failed to take his allegations seriously and, as a consequence, had mishandled his complaints.
21. The complainant said he had been the victim of a 'stitch-up' with what he characterised as fabricated evidence being used, leading to his conviction for matters of which he was innocent. The outcome was that he now had a criminal record and a fine to pay. He said he believed he was in this position because he 'had got on the wrong side of the police' by highlighting matters concerning substantial fraud in which they were complicit.
22. The complainant told the Commissioner that he could state with all honesty that he genuinely wanted the information he had been requesting. He said he had been fobbed off with 'pathetic' excuses from the police regarding why evidence he had spent years gathering and had provided to them, had not been acted upon and he could see no way of finding out other than through making FOIA requests.

The police view

23. The police said that the complainant's information requests all arose from his concerns about action taken against him for alleged non-payment of council tax. His correspondence and requests asserted police failure to respond to reports of criminal activity, fraud and perjury. These had resulted in a warning in January 2016 that subsequent information requests on these subjects might be considered to be vexatious within the meaning of section 14(1) FOIA.
24. The police said they had received information requests from the complainant concerning several police employees and determined that

these were all linked to the original complaints and allegations. The police said that the complaints had been investigated properly.

25. The police added that the complainant had demonstrated unreasonable persistence in making a series of information requests arising from his dissatisfaction with their handling of his council tax related complaints. He had been making connected FOI requests in growing numbers despite having his complaints dismissed by the relevant appellate bodies.
26. The police told the Commissioner that, in many of his requests, the complainant had made unfounded accusations, the tone of which appeared to suggest personal grudges against the Chief Constable, the Police and Crime Commissioner and some individual police staff members. He had made allegations of perjury against individuals which had been investigated but which investigation had shown to be untrue. The police added that the complainant had accused them of conspiring with other public authorities to collect extra taxes from the poor unfairly. He had also alleged that the police had covered up fraud by a local authority and its agents.
27. The police said that the history of aggressive and at times abusive language in his information requests, went beyond the level of criticism that a public authority or its employees should reasonably expect to receive. The complainant had placed much of the correspondence on the matters on public display via the WDTK website in an account that had been suspended owing to the allegedly defamatory nature of some of the comments posted on it.
28. The police said they had found the volume of requests received from the complainant about this and closely connected matters demonstrated unreasonable persistence and had become an unreasonable burden upon them. They said that the complainant had been corresponding with them since 2011 and the volume of his requests and correspondence had been increasing year by year. The police showed the Commissioner a schedule demonstrating that in a recent 12 month period, there had been 90 pieces of correspondence received from the complainant, all directly connected to his council tax matter.

The Commissioner's analysis

29. At the heart of this and other connected matters lies action taken by a local authority to recover from the complainant arrears of local taxes and compliance costs that it says are due. The complainant contends that no arrears are owed and that false evidence has been given against him. He says that his concerns are criminal, not civil, matters. He has

had the opportunity to challenge the rulings against him through the court appeals processes. However, he has chosen for the most part not to do so, fearing that the costs to him of an action, if unsuccessful, could be ruinous; that however is a matter for him.

30. The complainant told the Commissioner that FOIA entitled him to access information for any purpose, and that it was reasonable for him to use FOIA requests to draw attention to those in the police and other public authorities who he believed were perverting the course of justice in his matters.
31. FOIA provides fundamental rights to the public to request access to recorded information held by public authorities. However, it should not be used to vent dissatisfaction with matters which have already been concluded or as an alternative to the correct legal appeals routes. The Commissioner found that, in making his requests, the complainant has continued to press matters long after they have been adjudicated and dismissed and has therefore been unreasonably persistent.
32. The complainant's complaints against the police are predicated on his view that his concerns are criminal matters. It is clear from the complainant's own representations and those of the police that his efforts to persuade the police and the courts to his interpretation of the law have been unsuccessful. Determination of that issue is a question of law for the courts to resolve; it is not something for the police or the Commissioner.
33. The Commissioner has seen that, in many of his communications to and comments about the police, the complainant has used inappropriate and abusive or aggressive language. He has used FOIA requests to pursue personal grudges and has made groundless accusations.
34. The Commissioner has seen that the complainant's requests to the police have been unreasonably persistent over a period of several years. She has seen evidence of intransigence in the complainant being unwilling to hear, and unable to see, any virtue in views and interpretations other than his own. The growing stream of requests and related correspondence has imposed a real burden on the police. The effect of his requests has been to cause them disproportionate and unjustified disruption, irritation and distress.
35. The complainant continues to pursue complaints that have long been adjudicated. He persists in making requests for information under FOIA which no longer have any serious purpose and are of little or no value to the general public. The Commissioner has therefore decided that the requests were an unjustified and improper use of FOIA. They were

vexatious and the police were entitled to rely on section 14(1) FOIA to refuse to respond further to them.

Section 10 - time for compliance

36. Sections 10(1) FOIA (time for compliance) and 17(1) FOIA (refusal of request) require that a response to an information request should be sent within 20 working days of its receipt. In the case of requests 1, 2, 3 and 4 (but not request 5) the police did not respond within 20 working days of receiving the requests and in so doing breached the requirements of sections 10(1) and 17(1) FOIA.

Right of appeal

37. 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: www.justice.gov.uk/tribunals/general-regulatory-chamber

38. 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.
39. 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
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