

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 1 March 2018

**Public Authority:** Police and Crime Commissioner for North Yorkshire

**Address:** 12 Granby Road  
Harrogate  
HG1 4ST

### Decision (including any steps ordered)

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1. The complainant requested information relating to police funding. North Yorkshire Police and Crime Commissioner (the PCC) refused the request as vexatious under section 14(1) of the FOIA.
2. The decision of the Commissioner is that the request was vexatious, meaning section 14(1) was cited correctly and the PCC was not obliged to comply with it.

### Request and response

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3. On 19 June 2017 the PCC received a letter from the complainant in which he requested information in the following terms:

*"What I require is your explanation of your comment to the PCC Panel in Jan 17. You stated after my comments to the panel the freeze grants in the present work in relation to previous years. I find it most unusual considering budgets are examined by audit both internal and external. All grants are added to gross budget so the question has to be why was the freeze grant included in the last 4 years' calculations knowing that you were not entitled to it.*

*The calculations presented to the panel for endorsement show clearly the surplus from the tax base collections were used to reduce the tax base then added to boost total precept.*

*How the precept became 4% yearly? Plus therefore I require you under the Freedom of Information Act to illustrate in detail these questions."*

4. The PCC responded on 18 July 2017 and refused the request. Whilst section 14(2) (repeated requests) was cited, the wording of the refusal notice suggested that the concern of the PCC was that the request was vexatious, in which case section 14(1) (vexatious requests) would have been relevant.

## **Scope of the case**

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5. The complainant contacted the Commissioner on 27 July 2017 to complain about the refusal of his information request. The complainant indicated that he did not agree that his request was either repeated or vexatious.
  6. Whilst the complainant did not request the PCC to carry out an internal review in relation to the refusal of the request above, the Commissioner made the decision to accept the case without a review having been completed. In general where a request has been refused as vexatious, the Commissioner accepts that an internal review may not be worthwhile. In this specific case, it was clear that the request above was part of a long running correspondence, which was further grounds for finding that a review was not necessary in this case.
  7. As noted above, it was not clear from the refusal notice which of sections 14(1) or (2) the PCC were relying on. The Commissioner asked the PCC to clarify this point, to which the response from the PCC was that it intended to cite section 14(2), but that it also believed that section 14(1) applied.
  8. For section 14(2) to apply, the first condition is that the public authority must have complied with (not refused) an identical or substantially similar request from the same requester previously. In this case it was not clear either whether a similar request from the complainant had been handled under the FOIA previously, or whether such a request had been complied with.
  9. The Commissioner's view was that there was insufficient evidence that section 14(2) applied. Therefore, the following analysis focusses on section 14(1).
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## Reasons for decision

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### Section 14

10. The PCC cited section 14(1) of the FOIA, which provides that a public authority is not obliged to comply with a request that is vexatious. As covered in the Commissioner's published guidance<sup>1</sup> on this provision, section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
11. The task for the Commissioner here is to decide whether the complainant's request was vexatious according to that definition. In forming a conclusion on the citing of section 14(1), the Commissioner has taken into account the representations of the PCC, as well as the evidence that is available to her.
12. 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.
13. In this case the PCC has relied on the history of its dealings with the complainant when justifying its refusal of this request. The reasoning of the PCC and the Commissioner's analysis of this is as follows.
14. The PCC supplied to the Commissioner a schedule listing previous requests made by the complainant. This list mainly included requests made to North Yorkshire Police. As North Yorkshire Police is a separate public authority from the PCC, requests made to North Yorkshire Police are not relevant here.
15. The PCC stated that it had received four requests for information from the complainant since 25 April 2017. These requests were all for information relating to police funding. The Commissioner also notes that the request above was the latest in a lengthy series of correspondence sent from the complainant to the PCC. The materials supplied to the Commissioner by the complainant include correspondence dating back to February 2015. Those materials also show that the complainant has

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

taken up his concerns with North Yorkshire County Council and with the Home Office via his MP.

16. The reasoning of the PCC was that this pattern of contact from the complainant imposed a burden on the PCC. It also reasoned that the complainant had been provided with thorough explanations by the PCC in response to the concerns that he had raised and that his continued contact about these matters showed unreasonable persistence on his part.
17. Turning to the reasoning of the Commissioner, the Commissioner's guidance on section 14(1) refers to the following wording from the Upper Tribunal case *Wise v The Information Commissioner* (GIA/1871/2011):

*"Inherent in the policy behind section 14(1) is the idea of proportionality. There must be an appropriate relationship between such matters as the information sought, the purpose of the request, and the time and other resources that would be needed to provide it."*
18. The Commissioner's view is that this request, given the context of the wider dealings between the PCC and the complainant, would impose a significant burden on the PCC. In particular, the evidence of the complainant's previous dealings with the PCC suggests that, far from resolving the complainant's concerns, disclosure would be likely to result in the complainant sending further communiqués to the PCC, including more information requests. Having accepted that this request would impose a burden, in line with the approach taken by the Upper Tribunal, the question is whether that burden would be proportionate to the value of the request.
19. The view of the Commissioner is that the information the complainant is seeking is of little wider public interest. Instead, her view is that the complainant is seeking to pursue a matter of personal interest and in relation to which he has previously received responses that give explanations for what the complainant believed were anomalies relating to police funding. This means that the Commissioner is not of the view that it would be proportionate for the PCC to expend its resources on this request due to any weighty public interest in disclosure of the requested information.
20. In conclusion, the Commissioner has found that the request above would be burdensome to the PCC, both in itself following the complainant's previous requests and wider correspondence with the PCC, and due to the likelihood that compliance with this request would lead to further correspondence from the complainant. Having formed that view, the Commissioner considered whether that burden may be

proportionate to the value of the request, but, for the reasons given above, she believes that this request is of little value and so its burden would be disproportionate.

21. The finding of the Commissioner is, therefore, that the request was vexatious and so section 14(1) of the FOIA provided that the PCC was not obliged to comply with it.

## Right of appeal

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22. 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](mailto:GRC@hmcts.gsi.gov.uk)

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

23. 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.
24. 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 .....**

**Ben Tomes**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**