

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 May 2023

Public Authority: Chief Constable of Staffordshire Police

Address: Police Headquarters

Weston Road

Stafford

ST18 0YY

Decision (including any steps ordered)

1. The complainant has requested from Staffordshire Police (“the public authority”) information shared via Twitter. The public authority has refused to comply with the request, citing section 14 of FOIA – vexatious or repeated requests.
2. The Commissioner’s decision is that the request was not a vexatious request.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation:
 - Provide the complainant with the requested information and/or
 - Issue a fresh response to the complainant, which does not rely on section 14(1) of FOIA.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 7 February 2023, the complainant wrote to public authority and requested information in the following terms:

“Please treat this as a request under the Freedom of Information Act and provide me with the information that I am unable to view in the @StaffsPosAction retweet of [named person] tweet. I am blocked from seeing the information by your EDI team members.”
6. The public authority responded on 7 March 2023. It refused to provide the information, citing section 14(1) of FOIA – vexatious and repeated requests.
7. Following an internal review the public authority wrote to the complainant on 13 March 2023. It maintained its original position.

Scope of the case

8. The complainant contacted the Commissioner on 15 March 2023, to complain about the way their request for information had been handled.
9. The Commissioner considers that the scope of this complaint is to determine if the public authority is entitled to rely on section 14(1) of FOIA to refuse to comply with the request.

Reasons for decision

Section 14(1) – vexatious requests

10. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
11. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s updated guidance on section 14(1)¹ states, it is established that 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.

¹ <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

12. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
13. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
14. The emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) ("Dransfield")². Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.
15. Dransfield established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
16. The four broad themes considered by the Upper Tribunal in Dransfield were:
 - the burden (on the public authority and its staff);
 - the motive (of the requester);
 - the value or serious purpose (of the request); and
 - any harassment or distress (of and to staff).
17. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. They stated:

"all circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA" (paragraph 82).

The public authority's view

18. The public authority has explained that it considers the complainant is intent on causing annoyance to it, and has caused distress to the staff members.

² <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

19. The public authority has explained that the complainant has made several requests for similar information and it considers that the complainant wants the information to merely challenge and criticise the individuals with whom they have disagreement with. It also considers that the complainant wants to vent their disagreement with the policies/procedures with the individuals who wrote them.
20. The public authority has provided the Commissioner with the complainant's other requests that have been made.

The complainant's view

21. The complainant has explained to the Commissioner that they have not made several requests for similar information, and that they don't know what the subject is, as they are unable to see the information being shared.
22. The complainant has also explained that they do not want to see the Tweet posted by the individual who has blocked them; they just want to see the information that has been shared in the retweet by the public authority.
23. The complainant has also argued that the information is clearly intended for the public to see, and that it appears to be offering support for something. They explained that they should have access to that information.

The Commissioner's decision

24. In cases where a public authority is relying on section 14(1), it is for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.
25. The Commissioner notes the concerns expressed by the public authority about the wellbeing of its staff members and that it feels the complainant has no purpose other than to attack the processes adopted by it.
26. The public authority has provided copies of the requests that the complainant has sent in. The Commissioner notes that three of the requests were sent in prior to the request in question, all of which relate to policies and procedures. The request that this decision notice relates to is asking for information that has been publicly shared by the public authority, but the complainant is unable to see it, as they have been blocked by the person who originally posted it. Therefore, the Commissioner is satisfied that this request is not for similar information,

as the complainant is unable to see what information they are requesting.

27. The Commissioner notes that the requests for information from the complainant are on generic topics and that they do have a general transparency value; there is public interest in the policies and procedures within the Police.
28. The Commissioner also notes that the public authority has also provided evidence of requests which have been made *after* the request this decision notice relates to. These requests cannot be considered to demonstrate that the previous request is vexatious, as they have been submitted following the request. A request must be considered based on the situation which existed at the time it was submitted.
29. The Commissioner asked the public authority, if possible, to provide the complainant with the requested information, as he had explained to it why the request was not considered vexatious. However, the public authority refused to share the information, arguing that the complainant has no purpose other than to attack the processes adopted by it.
30. The Commissioner has not been provided with sufficient evidence to demonstrate that the request could be considered vexatious and, as such, he finds that the public authority is not entitled to rely on section 14(1) of FOIA to refuse to comply with the request.

Other matters

31. The Commissioner reminds both the public authority and the complainant that by submitting several requests all on the same or similar topics within a short period of time, they could be considered to be vexatious. The Commissioner has detailed this in his guidance as per paragraph 11.
32. Whilst this specific request, on its own, is not considered vexatious, if other requests are made, which are similar in nature and also frequent, the public authority may consider applying section 14 of FOIA. It would, however, need to demonstrate that the high bar to invoke section 14 has been met.

Right of appeal

33. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

34. 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.
35. 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

Michael Lea
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