

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 December 2015

Public Authority: Commissioner of the City of London Police

Address: Police Headquarters
Guildhall Yard East
London
EC2V 5AE

Decision (including any steps ordered)

1. The complainant has made a number of requests which all relate to his personal dealings with the police and include his dissatisfaction with the service he has received. The City of London Police ('COLP') has determined that the latest five requests are 'vexatious'. The Commissioner's decision is that COLP has correctly relied on the exclusion at section 14(1) (vexatious requests) of the FOIA. No steps are required.

Request and response

2. The five requests under consideration are appended to the end of this notice.
3. COLP responded to each request individually and advised the complainant that it considered it to be 'vexatious' under section 14(1) of the FOIA.
4. Following an internal review covering all five requests together, COLP wrote to the complainant on 30 September 2015 maintaining its position.
5. The Commissioner has considered all five requests under this single notice.

Scope of the case

6. Following earlier correspondence, the complainant contacted the Commissioner on receipt of his internal review to complain about the way his requests for information had been handled. His grounds of complaint include the following comments which the Commissioner consider to be relevant to this investigation:

"3. All my requests for information are based on my complaints to CLP, which have never been acknowledged, addressed and replied by CLP in breach of CLP and Col regulations with problems of harassment and intimidation of me by police as a vendetta for my rightful complaints on the increase, despite my and other residents complaints. Now the same is going on with my requests for information under FOIA 2000 with total denial [sic] of requested information under false pretext, which is wrong and must be rectified by ICO in conjunction with its statutory [sic] duties and written pledge:

4. Reference to the Data Protection Act are completely wrong and misleading as I did not requested [sic] any personal information about myself. All my requests for information are about CLP and its wrong actions.

5. In the light of full and absolute ignorance to my and other residents complaints in breach of CLP and CoL regulations, my requests for information under FOIA 2000 are the only legal means to make CLP transparent and accountable for its wrong and criminal actions against law abiding elderly people as a vendetta for their rightful complaints".

7. The Commissioner will consider whether the requests are vexatious below.

Reasons for decision

Section 14 – vexatious requests

8. Section 14(1) FOIA provides that a public authority is not obliged to comply with a request if it is vexatious.

9. The Commissioner's guidance¹ on the application of section 14(1) FOIA refers to an Upper Tribunal decision² which establishes the concepts of 'proportionality' and 'justification' as central to any consideration of whether a request is vexatious.
10. The guidance suggests that the key question the public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. Where this is not clear, the Commissioner considers that public authorities should weigh the impact on the authority and balance this against the purpose and value of the request. Where relevant, public authorities will need to take into account wider factors such as the background and history of the request.
11. In its initial responses to the complainant COLP explained that it considered them to be vexatious because:

"We have previously responded to three requests submitted by yourself (reference numbers COL/15/518, COL/15/749 and COL/15/827) all explaining why FOI requests concerning yourself attract the section 40(5) exemption and we have given you the option in each of these requests to submit a Subject Access Request if you believe City of London Police hold your personal data. Since we responded to COL/15/827 you have continued to submit a further five FOI requests of a similar nature.

We consider the requests to be repetitive and burdensome as the latest six requests you have submitted were made within the space of a week and half and the time taken to process each request is impacting on the organisation's resources.

The Freedom of Information Act was designed to give individuals a greater right of access to official information with the intention of making public bodies more transparent and accountable. We don't feel that your FOI requests are being made for this purpose.

We believe this decision is proportionate and relevant based on the rationale above".

¹http://www.ico.org.uk/for_organisations/guidance_index/~/_media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx

² Information Commissioner vs Devon County Council & Dransfield [2012] UKUT 440 (AAC) (28 January 2013)

12. COLP further advised the complainant that:

"The original reply identified three previous requests where you sought information relating to yourself and on each occasion the exemption contained in Section 40(5) was engaged and you were advised of the subject access procedure to request your own personal data.

I have reviewed your request history and note that you have submitted 12 requests over a four month period ...

All of these requests relate to ongoing complaints that you have made to City of London Police including an allegation that City of London Police arranged for toxic and nerve gas to be pumped into your property.

I note also that you have made a number of complaints to and about the City of London Police Professional Standards Directorate over a protracted period of time and your complaints have not been upheld.

It is my view that you are now making use of the Freedom of Information legislation to prolong a series of complaints where all other procedures have been exhausted. This is resulting in a disproportionate and unjustified level of disruption to the organisation".

13. In determining that these requests are vexatious, COLP has considered the history and background prior to these requests being made. This included the complainant's previous requests and complaints against COLP. In respect of wider context and history, COLP has explained to the Commissioner that:

"The applicant has an extensive history of making complaints to the City of London Police (CoLP) Professional Standards Directorate (PSD), dating back to 2002 and includes 9 complaints made in 2015. The original allegation made by the applicant, was that CoLP arranged for toxic and nerve gas to be piped into his property. Subsequent complaints were about officers involved in dealing with the original allegation and other officers dealing with subsequent complaints linked to the original allegation. These complaints have never been substantiated and where possible, the applicant has appealed to the IPCC [Independent Police Complaints Commission], who in turn, have never upheld a complaint. It is estimated that over the thirteen year period, many hundreds of hours of police time have been spent dealing with these complaints.

The applicant has exhausted the police/IPCC complaints procedures and the only legitimate option left to him is to seek a Judicial Review”.

14. As mentioned above, COLP advised the Commissioner that the complainant has made 12 requests under the FOIA over a four month period. Of these it explained:

“In two cases, the information requested was not linked by the applicant to himself and information relating to the identity of two police officers was provided. That information was used by the complainant to make complaints to PSD. Other FOI requests were linked by the applicant to himself and his continuing allegation or complaints, and on 5 occasions, attracted a Section 40(5) exemption. On each occasion, the applicant was directed to the SAR procedure.

The five requests subject of your investigation were then received over a 13 day period and each was linked, by the applicant, to himself and his ongoing dispute with CoLP. In each case, Section 40(5) of the Freedom of Information Act would be engaged”.

15. COLP also explained:

“The five requests subject of your investigation were then received over a 13 day period and each was linked, by the applicant, to himself and his ongoing dispute with CoLP. In each case, Section 40(5) of the Freedom of Information Act would be engaged”.

16. The Commissioner’s guidance on vexatious requests states that to show unreasonable persistence, a public authority must demonstrate that the requester is attempting to reopen an issue which has already been comprehensively addressed by the public authority, or otherwise subjected to some form of independent scrutiny. Where, as here, this is the situation, the Commissioner considers that a public authority is entitled to say ‘enough is enough’.

17. COLP has explained that the 5 requests under consideration in this notice are all themed and concern matters which relate to his complaints to, and about, COLP; he has already been advised that his complaints have not been upheld. As referred to by the complainant himself in paragraph 6 above, he has already acknowledged that: *“All my requests for information are based on my complaints to CLP”*. Whilst the complainant might be under the impression that his complaints have not been dealt with to his satisfaction by COLP (or the IPCC), nevertheless COLP has confirmed that they have been dealt with albeit that they have

not been upheld. In any event, it is the Commissioner's view that the FOIA access regime is not the appropriate course for a complainant to raise issues he has about the service he has received from a police force.

18. The Commissioner is therefore satisfied that in trying to re-open issues which COLP says it has previously dealt with the complainant demonstrates an unreasonable persistence. He further notes that many parts of the requests are not actually for recorded information. Rather they ask questions, seek opinions and try to initiate fresh complaints about how he has been dealt with. Such matters would fall outside the remit of the FOIA as they would not constitute 'recorded information' as required under section 8 of the FOIA.
19. The Commissioner also notes that the complainant has been appropriately advised regarding the correct access regime in which to request his personal data, namely the DPA. Although the complainant may not agree that his requests are for his own 'personal data' they are clearly all connected to his personal complaints and dealings with COLP and necessarily all relate to him personally. As such, any requests for related information would be exempt under the provisions of the FOIA and would be properly dealt with under the DPA. The Commissioner therefore finds that the complainant's apparent unwillingness to request information under the subject access provisions of the DPA demonstrates unreasonable persistence in trying to access information under the wrong access regime, which in turn leads to an unnecessary burden on COLP's staff.
20. In further demonstration of the burden caused by the complainant, COLP explained to the Commissioner that whilst it is the smallest of the forces:

"... the burden of dealing with requests for information is proportionately higher because we receive the same number of 'national' requests as other, larger Forces, such as the Metropolitan Police".

21. It advised that its Information Access Unit is staffed by three full time practitioners. One of these acts as the force's data protection officer and also has responsibility for the DBS Disclosure Unit, the Systems Auditor and the PNC/D Bureau which means he only has limited time to spend on FOIA requests. It explained that the work already undertaken on the 12 FOIA requests submitted by the complainant had totalled 36 hours, or almost one week's work. It added that during that period, it had received 411 requests for information, 344 were classified as FOI requests and that:

"Dealing with the 12 cases submitted by the applicant has therefore impacted on our ability to deal with other requests within the statutory deadline".

22. Based on the evidence provided above, the Commissioner is satisfied that these 5 requests are vexatious and that section 14(1) has been applied correctly.

Right of appeal

23. 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

24. 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.
25. 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

Carolyn Howes
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex – the requests

COL/15/869 – received 25/09/15

"With reference to the threatening letter of [name redacted], ref.MI/100/15 dated 24.09.2015, please send me the following information:

- 1. Who personally (name, position, id. number) did sign the order of promoting [name redacted] to the position of Deputy Director of PSD? Number and date of the order, please.*
- 2. Was the senior officer, who did sign the order, aware that [name redacted] is under ongoing investigation of his serious professional misconducts, breach of PS and cover up?*
- 3. I understand that it is a common consistent practice in CLP to promote staff, who are in breach of their professional duties and PS, especially after promotion of [name redacted]? Who is personally responsible for this wrong practice?*
- 4. Was [name redacted] in legal position to send me this threatening letter, taking into consideration my rightful complaints, which he did fail to address and my right to complain, as well as that he is currently under investigation for his personal serious professional misconducts?*
- 5. I understand that [name redacted] did send me his threatening letter on the order of his superiors. What are the names and positions of those superiors?*
- 6. Above all [name redacted] threatened me with support for his legal actions by IPCC, which currently investigate his personal serious professional misconducts, as if IPCC are under his direct subordination, thus undermining independence and impartiality of IPCC?*

Therefore my question is: on what legal ground did he make his threat and especially with support of IPCC?"

COL/15/888 – received 02/10/15

"May I request full name, position, I'd. number and police station of the younger officer of the team, who attended my flat this afternoon after my call 999 with ref. CAD 2347".

COL/15/895 – received 06/10/15

"Re: my letter dated 29.09.2015 to GLE; reply from [name redacted] Director of Community and City Services, dated 01.10.2015 Police ref: CAD 2347

With reference to above correspondence may I request the following information under FOIA 2000:

1. I have sent my letter to the GLE, but received wrong and misleading reply from the Director of Community and Children services, which wrongly justifies serious hygiene problems and lack of cleaning in the basement of GAH, stating that "staff regularly clean the area" and that "the balk refuse is removed twice a week". But as my complaints to the Town Clerk's office show, the area was not cleaned and balk refuse removed for 2 weeks! And this is not the first case.

May I therefore request information, who personally have misled [name redacted] in this case: cleaners, [names redacted] or her assistant [name redacted] or all of them covering up each other?

2. Who personally in the legal department did force [name redacted] to breach CoL complaints procedure by ignoring and not investigating and replying to my substantiated complaints? Was it [name redacted], solicitor, or his superiors up to [name redacted]?

3. With ref. to CAD 2347 may I request full names and positions of GLE staff members, who illegally removed 2 chairs from my front door without my consent? Have they acted on their own or were commanded to do this by their superiors, [names redacted]? Police officer (whose name, position and id. number I recently requested from the FOI officer of the CLP, told me that full information about the member of staff, who illegally removed chairs I must request from the estate office. However when I came to the estate office and asked [name redacted] to provide me with the names of the members of GLE involved, he told me that I quote: "Police told us not to reveal this information", which was obviously misleading and untrue. He then referred me to the GLE Manager [name redacted] (?!), who was not in the office. I requested [name redacted] to make me urgent appointment with [name redacted] and provided him with my mobile number, but he did fail to inform me about day and time of the requested appointment.(???) to determine the truth.

4. To find out who personally removed chairs from my front door is particularly important, because at the time of this removal (between 7 and 8 a.m.) toxic and nerve gases have been ingress-ed into my flat, which is regular illegal action by GLE staff to harass and intimidate me as a vendetta for my rightful complaints. I therefore will insist on providing me with full names and positions of the staff involved, as well as those who have ordered this illegal and hostile action to press charges against those involved.

5. Just the day before this illegal action I invited [name redacted] to inspect our block of flats and showed her written complaints of 5 my neighbors from 5,6 and 7 floors, affected by strong chemical smell on our floor, as well as

noisy knocks and movements during night time. I told her that I use the chairs to ventilate the corridor in case of particularly nasty smell. She did smell the smell and read the complaints but told me that this is not a police matter, referring me to the estate office, to where I have complained over 2 years to no avail.

And just after her visit, my chairs have been illegally removed without my consent.

My next request for information is the following:

Are [name redacted] or other officers under her command involved into this illegal action, and especially into ingress of toxic and nerve gases into my flat, which only police can do?

I would request full names, positions, i.d.numbers and PS of such officers, involved into CAD 2347 illegal action against me, as well as continuing harassment and intimidation of me with ingress of toxic and nerve gases into my flat?"

COL/15/899 – received 06/10/15

"Dear FOI officer, with reference to my attached letters to [name redacted], may I request the following information under FOIA 2000:

- 1. Did [name redacted] received my complaints- emails?*
- 2. Why they never been acknowledged with ref. numbers, investigated, addressed and replied as CoL complaint procedure requires?*
- 3. Why [name redacted] did breach CoL complaint procedure by ignoring them?*
- 4. Why until now I was not sent full name, position and direct email address of the Director of Housing Department as per my request?"*

COL/15/903 – received 07/10/15

"Attached please find my complaint to the commissioner about [name redacted], still not investigated, addressed and replied. I therefore ask you to provide me with the following information under FOIA 2000:

- 1. Was my complaint handed by [name redacted] to the Commissioner as per my request?*
- 2. Why until now it was not registered with ref. number and not investigated, addressed and replied as per CLP and CoL rules and regulations?*

3. Why harassment and intimidation of me with ingress of toxic gases into my flat are on the increase after my complaints to [name redacted], as well as to you personally?

4. Are they both involved, direct and cover up this continuing over 6 years crime?

5. May I request the following information about illegal operation under code name "Foreigner":

a. What is the date, ref. number and who personally authorized and signed it?"