

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 June 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 information from Humberside Police concerning instances of its refusal to act on alleged crimes, notably allegations of perjury, that he had reported to them.
2. The Commissioner decided that Humberside Police had acted correctly in relying on the section 14(1) (vexatious requests) FOIA exclusion to refuse the requests. The police did not respond within 20 working days of receiving these 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.

Request and response

4. The requests arose out of correspondence about a dispute of long standing between the complainant and Humberside Police (the Police). The complainant remains dissatisfied with enforcement action taken by a local authority in respect of his alleged under-payment of Council Tax. He has taken a number of steps to challenge the authority's actions, which he considers to be unjust. The matters relate to the alleged under-payment of council tax and to an application by a local authority for a Liability Order against him. The Police have determined that the council tax issues are 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 FS506656398) was made on 10 June 2016 in respect of a police local complaint resolution decision:

"Appeal Assessment – Ref: [number redacted] (8 June 2016)

[hyperlink redacted]

"The person who passed the advice to the complainant would not be subject to disciplinary or criminal proceedings as a result and therefore the appropriate authority was correct in deciding that the complaint was suitable for local resolution."

The above implies that the person whom the complaint revolved around was not the person who incorrectly made the decision, i.e., the person potentially subject to a criminal conviction.

Q 1. Who was the person that made the incorrect decision if not the person who passed the advice to the complainant?

.....
.....

Paragraph 3(b) under header, "BACKGROUND TO THE APPEAL"

Have representations been received? N/A "

The above implies that the complainant did not submit representations despite a substantial amount forwarded to Humberside police.

Q 2. Please disclose all representations that were considered in the Appeal Assessment".

- 6. Request 2 (ICO case FS50658389) was made on 15 October 2016:

"Below is a link to the first of 7 pages of a false witness statement (1 Sep 2015) contained in a Crown Prosecution Service bundle handed to the defendant by the court usher only minutes before a court hearing on 30 September 2015.

[hyperlink redacted]

The witness has signed the statement declaring the following:

"This statement, (consisting of 7 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true."

The statement is not true, nor could the person who made the statement have believed it to be so.

Please disclose the following in relation to the witness statement referred to:

- 1. Was the statement tendered in evidence*
 - 2. Humberside police forces policy with regards to dealing with an allegation that such a witness statement is untrue".*
7. Request 3 (ICO case FS50667388) was made on 16 March 2016:
- "Please disclose under the freedom of information [sic] all records held by the force regarding two Humberside police officers who arrested the defendant at his home in relation to a case Ref: [number redacted], on the morning of 22nd December 2015".*
8. The complainant made his information requests via the WhatDoTheyKnow.com website (WDTK) and included background information about the requests.
9. 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 many other closely connected requests were imposing an unjustified and disproportionate 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

10. The complainant wrote to the Commissioner to complain about the Police failure to respond to requests 1 – 3 on 21 November 2016, 3 December 2016 and 15 May 2016 respectively. In this, and in subsequent correspondence, 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 he said that they had a serious purpose.
11. 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 between the Police and the complainant.
12. 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 record her decisions.

Reasons for decision

Section 14 - vexatious or repeated requests

13. Section 14(1) FOIA provides that a public authority is not obliged to comply with a request that is vexatious.
14. 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 on section 14(1) FOIA¹ 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.
15. Where information requests impose a significant burden, the Commissioner considers that a public authority should weigh the impact of the request on itself 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

16. 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 says 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 suffered gross injustice at the hands of the Police and considered that his information requests therefore had a serious purpose.
17. 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 fraudulent activity he alleged

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

and that the Police had shown no signs of accountability, appearing to conduct themselves without any standard or duty to the taxpayer.

18. 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.
19. 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 said 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.
20. 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 about why evidence he had spent years gathering, and had provided to them, had not been acted upon. He could see no way of finding out other than through making FOIA requests.

The Police view

21. 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 warnings, starting in January 2016, that subsequent information requests on this subject might be considered to be vexatious within the meaning of section 14(1) FOIA.
22. The Police said they had received multiple information requests from the complainant and determined that these were all linked to the original complaints and allegations. The Police said that the complaints had all been investigated properly and the question of whether or not these were criminal matters had been considered by the force Solicitor.
23. 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.

24. 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 found to be untrue. The Police added that the complainant had accused them of conspiring with other public authorities to unfairly collect extra taxes from the poor. He had also alleged that the Police had covered up fraud by a local authority and its agents.
25. The Police said that the history of aggressive, and at times abusive, language in the complainant's 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 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.
26. 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 and unjustified 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.
27. The police provided the Commissioner with a schedule demonstrating that in a recent 12 month period, there had been 90 pieces of correspondence received from the complainant, all of which related to his council tax matters.

The Commissioner's analysis

28. 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 by the local authority. 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.
29. 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 respect of his matters.

30. 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 following the correct legal appeal routes. The Commissioner found that, in making his requests, the complainant has continued to use FOIA requests to press matters long after they have been adjudicated and dismissed and has therefore been unreasonably persistent.
31. The complainant's allegations against the Police are predicated on his view that his concerns are criminal matters. It is clear from both 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.
32. The Commissioner has seen in these, and in connected matters, 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 against individuals and has made groundless accusations.
33. 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 and unable to consider there being 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 and to divert resources from other activities of public value.
34. 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, are a significant burden on the police 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.
35. The Commissioner is aware that she has herself already issued other decisions concerning action taken by Humberside Police, as well as by

other public authorities, relating to connected concerns raised with them by the complainant. She is aware too of a recent decision by the First Tier Tribunal (Information Rights) upholding an earlier relevant decision by her in relation to another public authority; these were also section 14(1) FOIA matters. For the avoidance of doubt the Commissioner makes clear that, although mindful of the historical context, she has determined afresh the three matters that are the subject of this decision notice and has not taken into account here issues that have arisen in respect of other matters raised with different public authorities .

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 each of these matters the police did not respond within 20 working days of receiving the requests and in so doing breached the requirements of section 10(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
Group Manager

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