

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 August 2017

Public Authority: Chief Constable of Greater Manchester Police
Address: Greater Manchester Police
Openshaw Complex
Lawton Street
Openshaw
Manchester
M11 2NS

Decision (including any steps ordered)

1. The complainant has requested information about the time, costs and staff involved in his dealings with Greater Manchester Police ("GMP"). GMP refused to comply with the request on the grounds that it was vexatious within the meaning of section 14(1) of the FOIA.
2. The Commissioner's decision is that GMP was entitled to rely on section 14(1) of the FOIA to refuse to comply with the request.
3. The Commissioner requires no steps to be taken.

Background

4. The background to this matter is that the complainant was dismissed from his job, and at the subsequent Employment Tribunal, he maintained that key witnesses perjured themselves. He reported these concerns to GMP, but was dissatisfied with its investigation of them. Subsequently, he embarked on a course of action which resulted in him being convicted of harassment (although he has told the Commissioner that this conviction was recently quashed).
5. The request in this case is substantially similar to a request for information from the same individual which the Commissioner

considered in case reference FS50605047. The decision notice in that case was issued on 15 March 2016¹.

6. GMP stated in response to that request that it did not hold the information described in the request and the complaint was not upheld.

Request and response

7. On 14 March 2017, the complainant wrote to GMP and requested information in the following terms:

"Please tell me the names of all the GMP employees that have been involved in my persecution (hate crimes against me)

How much time has been spent on harassing someone who was KNOWN to be disabled?

How much has it all cost?"

8. GMP responded on 15 March 2017. It stated that it was not obliged to comply with the request on the grounds that it was vexatious within the meaning of section 14(1) of the FOIA.
9. Following an internal review GMP wrote to the complainant on 16 March 2017. It upheld its application of section 14(1) of the FOIA.

Scope of the case

10. The complainant contacted the Commissioner on 16 March 2017 to complain about the way his request for information had been handled. He disputed GMP's decision to refuse the request as vexatious.
11. The Commissioner considers the scope of this decision notice to be whether GMP was entitled to rely on section 14(1) to refuse to comply with the complainant's request.

Reasons for decision

¹ https://ico.org.uk/media/action-weve-taken/decision-notice/2016/1623966/fs_50605047.pdf

Section 14 - vexatious or repeated requests

12. Section 14(1) of the FOIA states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious. There is no public interest test.
13. The term 'vexatious' is not defined in the FOIA. The Upper Tribunal considered the issue of vexatious requests in the case of the *Information Commissioner v Devon CC & Dransfield*. The Tribunal commented that vexatious could be defined as the "*manifestly unjustified, inappropriate or improper use of a formal procedure*". The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.
14. In the Dransfield case, the Upper Tribunal also found it instructive to assess the question of whether a request is truly vexatious by considering four broad issues: (1) the burden imposed by the request (on the public authority and its staff), (2) the motive of the requester, (3) the value or serious purpose of the request and (4) harassment of or distress to staff.
15. The Upper Tribunal did, however, also caution that these considerations were not meant to be exhaustive. Rather, it stressed the:

"...importance of adopting a holistic and broad approach to the determination of whether a request is vexatious or not, emphasising the attributes of manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious requests" (paragraph 45).
16. The Commissioner has published guidance on dealing with vexatious requests². That guidance includes a number of indicators that may apply in the case of a vexatious request. The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of the case will need to be considered in reaching a judgement as to whether a request is vexatious.
17. As discussed in the Commissioner's guidance, the relevant consideration is whether the request itself is vexatious, rather than the individual submitting it. A public authority can also consider the context of the

² <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

request and the history of its relationship with the requester when this is relevant. The Commissioner's guidance states:

"The context and history in which a request is made will often be a major factor in determining whether the request is vexatious, and the public authority will need to consider the wider circumstances surrounding the request before making a decision as to whether section 14(1) applies".

18. Sometimes it will be obvious when a request is vexatious, but sometimes it may not. In that respect, the Commissioner's guidance states:

"In cases where the issue is not clear-cut, the key question to ask is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress".

The complainant's view

19. The complainant disputed that the request was vexatious. He set out the background to his relationship with GMP and said that GMP's interactions with him could fairly be characterised as "*persecution*". He said it was in the public interest that it be transparent about this and about its use of public money to pursue this course of action against him.

GMP's view

20. It is GMP's position that the complainant's dissatisfaction with the matters set out in paragraph 4 has escalated into voluminous and obsessive correspondence which dominates its FOIA resources with requests and these, when answered, frequently generate further requests and correspondence. As an example, it said that this request had generated a total of five emails from the complainant. Two of these were the request and subsequent request for an internal review. Three were follow-up emails accusing GMP of corruption and harassment. It provided examples of 13 other requests for information and associated correspondence from the complainant. One request, for copies of all emails the complainant had sent GMP between 2011 and March 2017, revealed that in that period he sent 195 emails to the Chief Constable's Office alone.
21. GMP says that the volume of the complainant's FOIA requests and associated correspondence, his habit of submitting repeated and overlapping requests and their often defamatory and accusatory tone have transcended what would be proportionate in the circumstances, and have become manifestly unreasonable and burdensome in terms of the resources that need to be allocated to deal with them. It also believed this request lacked a serious intention to obtain information,

and was instead an attempt to harass and discredit it via the public mechanism of the FOIA.

22. GMP considered that the request was part of a steady and persistent series of FOIA requests and that answering it offered no prospect of satisfying the complainant and would not result in the requests stopping. It acknowledged that an individual request may not be vexatious in isolation, but when considered in the context of a long series of overlapping requests or other correspondence it may form part of a wider pattern of behaviour that makes it vexatious. It considered that the request, when taken in context with the many other requests received from the complainant, could fairly be regarded as vexatious.
23. With reference to the Commissioner's guidance, GMP confirmed the indicators of a vexatious request that it considers apply in this case.

Personal grudges

24. GMP referred to the complainant's dissatisfaction with the matters outlined in paragraph 4, above, and saw this as a strong motivating factor which drove his persistent requests:

"Clearly the FOIA is an important resource to individuals investigating wrongdoings in general terms within a public authority. However, when the posed questions are intrinsically immersed, and as a result tainted, in an individual's interactions, it knocks on the door of being vexatious."

25. It considered that the complainant's prime motivation with the request was not to obtain information, but to publicly embarrass and harass the force, taking advantage of the fact that disclosure under FOIA is disclosure to the world at large.

Unreasonable persistence

26. GMP noted that there were more appropriate routes by which the complainant could pursue a complaint about its handling of the matters referred to in paragraph 4, and he had been invited to pursue them.
27. The complainant had been advised that he should refer his specific concerns about his complaint to its Professional Standards Department, and GMP also understood, from comments the complainant had made, that he had complained to the IPCC, and that it had, in his words, "*done nothing*". Nevertheless, he continued to direct voluminous correspondence to GMP's Information Compliance and Records Management Unit, which was not in a position to investigate his concerns.

28. It further noted that his request to know the costs involved in dealing with him was a repeat of the request referred to in paragraph 5, above. In that case the Commissioner had decided that GMP did not hold the information, and the complainant did not appeal the decision to the First-tier Information Rights Tribunal. The complainant therefore appeared to have disregarded that decision when making this request and attempted to re-open a matter which had already been dealt with.

Unfounded accusations

29. GMP said that the complainant's requests were frequently peppered with unfounded accusations. In this case, he accused GMP of "*persecuting*" and "*harassing*" him. GMP strongly denied both allegations and considered that providing confirmation or denial as to whether it held any relevant information could be taken as an endorsement of his claims.
30. GMP provided the Commissioner with multiple examples of the complainant's accusatory choice of wording in other requests. They repeatedly contained allegations of incompetence, failure of duty, bullying, victimisation, persecution and hate crime against GMP. The allegations were presented by the complainant as statements of fact, with no evidence to support them.
31. Furthermore, the requests were often copied to multiple recipients (such as other public authorities, MPs and media outlets) and so these allegations reached a wider audience than just GMP.

Intransigence

32. GMP said that the complainant's correspondence was characterised by a failure to modify his approach in response to information or advice previously provided to him. As an example, it said that the complainant had been advised how to access his own personal data, multiple times. This had arisen as a result of several FOI requests and related correspondence. Due to the nature of the information he requested, previous responses had exempted his personal data under section 40(1) (Personal information) of the FOIA. Despite it being explained to him that his own personal data could not be disclosed to him under the FOIA, the complainant continued to make FOIA requests that centred on his personal data. Where guidance had been offered, or further explanations given as to why the exemption applied, the complainant simply responded with accusations of the sort outlined in paragraph 30, above.

Burden on the authority

33. GMP conceded that, on its own, compliance with this request may not be considered to place a significant burden on the organisation. It was

when this request was considered in conjunction with the complainant's other, voluminous correspondence, that his actions as a whole can be seen to have become a burden on GMP's FOIA resources. It had become untenable to entertain his continued accusations and related requests. Despite numerous attempts to explain why the FOIA was not suitable for this purpose, the complainant continued to submit emails of the same nature. In view of this, GMP considered that the time and effort to process and respond to the complainant's requests placed a significant burden on its available resources for dealing with FOIA requests.

34. GMP did not provide data for the total number of FOIA requests it had received from the complainant since 2011. However, as set out in paragraph 20, above, it did provide examples of requests and related correspondence. It made the point that each request generated additional correspondence from the complainant which had to be responded to, and this increased the burden to it of dealing with the request itself.

Frequent or overlapping requests

35. GMP said that the complainant submits frequent correspondence about the same issue and sends in new requests before it has had an opportunity to address earlier enquiries.

36. GMP noted:

"Often, [the complainant] asks the same questions, despite numerous responses from GMP. In almost all circumstances the questions relate to the same topic and are still entrenched in the same language."

No obvious intent to obtain information

37. GMP considered the complainant to be using the FOIA to vent his anger at GMP. Given the sheer volume and tone of his correspondence, it considered this to be an attempt to harass and defame it.
38. GMP recognised that full and complete investigation of any wrongdoing within an organisation is in the public interest, and that it is important to offer transparency in such matters. To that end, the complainant had been advised to refer his case to GMP's Professional Standards Department. However, although there might be a serious underlying issue behind the complainant's grievance with GMP, GMP felt that the request in this case was of little wider benefit to the public. The complainant was concentrating on his own involvement with GMP, believing GMP's conduct towards him to have been questionable. GMP said that, in the circumstances, it would be of wider public benefit to request information relating to any accusations of 'corruption' or misconduct within GMP as a whole. These points led GMP to question the value of the request further.

The Commissioner's view

39. The Commissioner acknowledges that there are many different reasons why a request may be vexatious, as reflected in her guidance. There are no prescriptive 'rules', although there are generally typical characteristics and circumstances that assist in making a judgement about whether a request is vexatious. A request does not necessarily have to be about the same issue as previous correspondence to be classed as vexatious, but equally, the request may be connected to others by a broad or narrow theme that relates them. A commonly identified feature of vexatious requests is that they can emanate from some sense of grievance or alleged past wrong-doing on the part of the authority.

40. As the Upper Tribunal in *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) observed:

"There is...no magic formula – all the 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".

41. In her guidance on dealing with vexatious requests, the Commissioner recognises that the FOIA was designed to give individuals a greater right of access to official information with the intention of making public bodies more transparent and accountable.

42. While most people exercise this right responsibly, she acknowledges that a few may misuse or abuse the FOIA by submitting requests which are intended to be annoying or disruptive or which have a disproportionate impact on a public authority.

43. The Commissioner recognises that public authorities must keep in mind that meeting their underlying commitment to transparency and openness may involve absorbing a certain level of disruption and annoyance.

Was the request vexatious?

44. The Commissioner considered both GMP's arguments and the complainant's position regarding the information request in this case. She also notes the background to it.

45. As in many cases which give rise to the question of whether a request is vexatious, the evidence in the present case showed a history of previous and subsequent information requests. Clearly in this case, GMP

considers that the context and history strengthens its argument that the request is vexatious.

46. In its submission to the Commissioner, GMP did not provide evidence specifically as to the burden that would be caused by this particular request, other than to provide a sample of requests as evidence as to the frequency of his correspondence. The burden on GMP in this matter arises principally from the resources and staff time that it has spent on addressing the complainant's information requests and related correspondence. In that respect, the Commissioner notes GMP's reference to the persistence and frequency of the complainant's requests and his overlapping correspondence.
47. The Commissioner acknowledges the impact on GMP's administrative resources of dealing with the complainant's request, when considered alongside the voluminous nature of the other requests regularly submitted by him on connected subject matter. She accepts that this has caused a significant level of disruption and irritation to it and that dealing with them means that it runs the risk of impacting on service levels afforded to other people who make FOIA requests.
48. The Commissioner recognises that the complainant had his reasons for pursuing information from GMP. He is clearly not satisfied with how GMP has conducted itself in its interactions with him. However, disclosure of the requested information would do nothing to resolve that central dispute. In view of this, the Commissioner considers that the request for information has no wider value or purpose beyond the complainant's pursuit of his personal grievance against GMP.
49. Having looked at the pattern of the complainant's requests, the Commissioner also considers that any response given by GMP would not be the end of the matter. The context and history of the requests suggests to the Commissioner that a response to this request would be likely to lead to further communications and more requests for other information on related matters from the complainant with a further consequential burden on GMP staff but no prospect of resolving the underlying issue. She is of the view that this would extend the life of the complainant's use of the FOIA to address his grievance with GMP.
50. The Commissioner also notes the attempt by the complainant to repeat a request for information in respect of which she has previously issued a decision. The complainant had the opportunity to appeal that decision to the Tribunal, but did not do so. In view of this, the Commissioner considers that element of his complaint to her, to border on the frivolous, within the meaning of section 50(2)(c) of the FOIA.
51. She considers it clear that the complainant appears to be attempting to pursue his grievances through the FOIA regime and that, by the volume

and the tone of many of the requests and accompanying correspondence, he is using it in an attempt to defame and harass GMP.

52. The Commissioner considers that the FOIA is not an appropriate mechanism for pursuing such concerns. If the complainant has concerns about how GMP has dealt with him regarding the matters set out in paragraph 4, there exist other channels through which he may have his grievances formally examined. The Commissioner considers that there is no public interest in them being played out in public, under the FOIA regime.
53. The purpose of section 14 of the FOIA is to protect public authorities and their employees in their everyday business. In her guidance, the Commissioner recognises that dealing with unreasonable requests can place a strain on public authorities' resources and get in the way of delivering mainstream services or answering legitimate requests. Furthermore, these requests can also damage the reputation of the legislation itself.
54. On the basis of the evidence provided, and taking into account the findings of the Upper Tribunal in Dransfield that an holistic and broad approach should be taken in respect of section 14(1), the Commissioner is satisfied that the request was a manifestly unjustified and improper use of the FOIA such as to be vexatious for the purpose of section 14(1).
55. Accordingly, she is satisfied that GMP was entitled to apply section 14(1) of the FOIA.

Right of appeal

56. 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

57. 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.

58. 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

Samantha Bracegirdle
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