

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 November 2014

Public Authority: Chief Constable of South Wales Police
Address: Police Headquarters
Cowbridge Road
Bridgend
CF31 3SU

Decision (including any steps ordered)

1. The complainant requested information about a particular (now non-operational) mobile speed camera site. South Wales Police initially stated that it did not hold the information requested. In its internal review it stated that it considered the request to be vexatious and, as such, it was relying on section 14(1) of the FOIA. The Commissioner's decision is that South Wales Police has correctly applied section 14(1) of the FOIA to the request. He does not require any steps to be taken.

Request and response

2. On 20 February 2014 the complainant wrote to South Wales Police and requested information in the following terms:

"I would like all the information in relation to the now defunct mobile speed camera site at Pontypridd Jobcentre car park until I contested and won my case against a ticket issued by said Camera in 2003. I would like to see the documentation on why this location was removed from your selection of sites after my case and has never been seen there since. Also, Why the speed limit was increased to 40 mph after my case whereby the ticket issued to me was for my car clocked apparently doing 41 mph. There was no alteration to the road and so I would like to know why the speed limit was changed"
3. South Wales Police responded on 4 March 2014 and stated that it did not hold information relevant to the request. It explained that speed

limits "are set in consultation with the Council and the safety Camera Partnership". South Wales Police advised that the information requested may be held by either Rhondda Cynon Taf County Borough Council or Go Safe. Contact details for these organisations were provided.

4. On 4 March 2014 the complainant wrote back to South Wales Police stating that he had asked for a lot more information than camera sites, including the reason why the camera was removed from the site and why the speed limit for the road was changed.
5. South Wales Police treated the communication of 4 March 2014 as an internal review request and provided the outcome of its review on 3 April 2014. South Wales Police stated that it was now relying section 14(1) of the FOIA as the request was considered to be vexatious.

Scope of the case

6. The complainant contacted the Commissioner on 28 April 2014 to complain about the way his request for information had been handled.
7. The Commissioner considers this complaint to be whether South Wales Police correctly applied section 14(1) to the request of 20 February 2014.

Reasons for decision

Section 14 – Vexatious requests

8. Section 14(1) of 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.
9. The term 'vexatious' is not defined in the legislation. In *Information Commissioner vs Devon County Council & Dransfield*¹, the Upper Tribunal took the view that the ordinary dictionary definition of the word vexatious is only of limited use, because the question of whether a request is vexatious ultimately depends upon the circumstances surrounding that request. The Tribunal concluded that 'vexatious' could be defined as the "...manifestly unjustified, inappropriate or improper

¹ UKUT 440 (AAC) (28 January 2013)

use of a formal procedure" (paragraph 27). The decision clearly establishes that the concepts of 'proportionality' and 'justification' are central to any consideration of whether a request is vexatious.

10. In the Dransfield case, the Upper Tribunal 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 and its staff); (2) the motive of the requester; (3) the value or serious purpose of the request; and (4) any harassment or distress of and to staff. 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).

11. The Commissioner has identified a number of "indicators" which may be useful in identifying vexatious requests. These are set out in his published guidance on vexatious requests². 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 a case will need to be considered in reaching a judgement as to whether a request is vexatious.
12. The Commissioner has therefore considered whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress in relation to the serious purpose and value of the request.

South Wales Police's position

13. As background information, South Wales Police advised that there has been a significant history of contact with the complainant, its Central Ticket Office (CTO), and its Data Protection (DP) and Professional Standards departments (PSD). South Wales Police stated that the complainant has repeatedly complained about a Notice of Intended Prosecution (NIP) issued for speeding in 2003.

² [http://www.ico.org.uk/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx](http://www.ico.org.uk/~/media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx)

14. In March 2004 South Wales Police received a report that the complainant had allegedly lied under oath during a court case about the NIP. As a result the complainant was interviewed by South Wales Police in relation to perjury charges in August 2004. The complainant was found guilty of perjury in June 2005 and spent 3 months in prison for the offence. However, he remains dissatisfied with the way that South Wales Police handled the matter and is continually pursuing a matter he feels is unjust. The complainant considers that the NIP was issued illegally as the mobile speed camera van was hidden from view.
15. South Wales Police advise that the issue of the speeding ticket issued in 2003 prompted the complainant to call and visit various departments. He first contacted the CTO and later visited their office, whereupon he became aggressive and his demeanour led staff to believe he was potentially violent. A police officer was called and the complainant made a complaint about the officer concerned before he had even left the police station. Since this date the complainant has pursued various information from the DP and PSD departments and made allegations of corruption and that South Wales Police have destroyed evidence he requires to pursue his case.
16. The complainant has been in regular contact with South Wales Police since 2003, about a number of different issues. In October 2013, the complainant reinstated contact with South Wales Police specifically about the NIP, his conviction and the time served in prison for perjury. He made allegations that an officer had perverted the court of justice in handling the original NIP and perjury investigation. The complainant stated that he had originally complained about the issue in 2004 and said that he wanted to now make a complaint about the way the original complaint had been dealt with. Between October 2013 and March 2014, the complainant contacted South Wales Police on numerous occasions. During the calls the complainant made various allegations against South Wales Police and its officers, the Crown Prosecution Service and the barrister who defended him in the court case concerned, making accusation that there had been a conspiracy to secure a conviction against him.
17. In reaching a decision as to whether the request was vexatious in this case, South Wales Police confirmed it had taken the following indicators into consideration.

Abusive or aggressive language

18. South Wales Police is of the view that the correspondence received from the complainant is continuously aggressive and abusive. South Wales Police referred to various statements made by the complainant when he

does not receive the response he is hoping for as a result of requests he has made, including:

"If you paid attention to my previous reply, you would have clearly read what I said"

"You are continually flouting the law by not responding to my requests"

"I've heard every excuse under the sun for not releasing this information to me"

"the more people that know about corruption within South Wales Police the better it will be for us all as we all rightly deserve to have a force that is free from blemish"

"Nobody, including [name of officer redacted] is prepared to answer me and all it does is add more weight to the fact that the police are covering up for officers who have clearly broken the law by perverting the course of justice"

19. In addition, whenever the complainant has contacted South Wales by telephone he has become abusive and aggressive and made various allegations calling staff liars and advising that all staff at South Wales are corrupt. He has made numerous calls to South Wales and many of the calls have had to be terminated due to his abusive language. Some examples of abusive language provided by South Wales Police include accusing one individual of "pedalling filth and lies" and that "you are the police too – you're all in it together". He also made a comment to another individual that she should "be careful how you answer make sure you tell the truth" and when questioned about the statement he said that all officers of South Wales Police had lied to him for years. South Wales Police's PSD have had to transfer a large number of calls from the complainant to its "Hostile Caller Line" where callers are put through to an answerphone.
20. In 2004, as a result of persistent telephone calls, South Wales Police wrote to the complainant to advise that his calls had caused annoyance, inconvenience and anxiety to individuals he had spoken to. South Wales Police asked the complainant to refrain from making unnecessary calls and advised that failure to comply may result in an investigation under the ambit of the Communications Act 2003.
21. South Wales Police advised the Commissioner that, as well as the issue with the NIP, the complainant had contacted them about other matters in the period 2003 to 2014. South Wales Police provided the Commissioner with evidence that the pattern of aggressive and abusive behaviour has been apparent in the complainant's contact about these other matters.

Unfounded accusations

22. South Wales Police reported that the complainant continually accuses its employees of lying and alleges that it has destroyed evidence in order to prevent it being disclosed to him. For example, in January 2014, he alleged that South Wales Police had not responded to a Subject Access Request he had made in 2010. Following a check of its records, South Wales Police identified that a full response had been issued in May 2010. When the complainant was advised of this, he called the DP Disclosure Officer a liar.

Unreasonable persistence

23. South Wales Police advised that the complainant is continually revisiting matters that occurred in 2003, namely the issuing of a NIP for speeding. As referred to earlier in this notice, the complainant resurrected matters relating to the NIP in October 2013, and based on evidence provided by South Wales Police he has continued to contact them about the subject matter up to October 2014.
24. South Wales Police advised that the complaint made by the complainant in October 2013 referred to the conduct of an interview that took place between him and a particular officer who interviewed him about an allegation of perjury in August 2004 (related to the NIP). The complainant also alleged that the officer concerned had stalked him and his wife around that time. South Wales Police established that the complainant did make complaints against the officer concerned, and other officers, in 2004. However, the complaints were locally resolved and finalised, with the complainant's agreement.
25. In relation to the recent complaint made in October 2013, South Wales Police have asked the complainant for further evidence in relation to the complaint, including a copy of the transcript which he referred to. To date, the complainant has not provided any further evidence.

Frequent and overlapping requests

26. South Wales Police advise that the complainant has contacted them on numerous occasions, both by phone and in writing. Not all of the questions and requests submitted by the complainant have been dealt with under the FOIA.
27. On 12 January 2014 the complainant sent an email to the Police and Crime Commissioner for South Wales advising he had received no response to an email he had sent several weeks earlier. He requested all documentation about his complaint that was 'disapplied' by South Wales Police in 2005. The Police and Crime Commissioner pointed out that it was a separate entity to South Wales Police. It stated it did not hold the

information requested and asked the complainant if he wished it to transfer the request. The request was subsequently transferred to South Wales Police who refused to confirm or deny whether the information requested was held under section 40(5) of the FOIA. The complainant was advised to apply for the information under the provisions of the Data Protection Act 1998. On 27 January 2014 the complainant then submitted a Subject Access Request for information about the complaint, which relates to the issuing of the NIP and associated perjury allegations.

28. On 20 February 2014, the complainant submitted the request which is the subject of this notice and subsequently requested an internal review of South Wales Police's handling of it.
29. South Wales Police also provided evidence to the Commissioner to demonstrate that the complainant has been in very frequent contact by telephone with staff in its information request handling department between 27 January 2014 and 8 April 2014.

Personal grudges

30. South Wales Police considers that the complainant has a personal grudge against one particular police officer. This officer is named in one of the requests he submitted in January 2014. This police officer arrested and interviewed the applicant for perjury in 2004. In one conversation he referred to this particular officer and the "trumped up charges of perjury".
31. South Wales Police advised that in correspondence and conversations with the complainant he has named a number of officers and staff accusing them of wrongdoing and failing to address his complaint. South Wales Police also advised that the complainant had made a number of complaints about various individuals who have had dealings with him.
32. During numerous telephone calls from the complainant he has become aggressive and abusive to the person he is speaking to and accuses them of lying and corruption.

Futile requests

33. South Wales Police stated that the subject matter of the request is one that individually affects the requestor and it has already (some 11 years ago) been conclusively resolved. The complainant was issued a speeding ticket in 2003 and was later convicted of perjury in relation to lies he was alleged to have told in proceedings against him for speeding and other offences under the Road Traffic Act.

Burden on the authority/disproportionate effort

34. South Wales Police acknowledged that complying with this request would not, in itself constitute a burden. However, it argues that, based on previous dealings and contacts with the complainant, he will not be satisfied with any response and will submit numerous follow up enquiries regardless of what information is supplied and will continually seek to ask questions for the sole purpose of reopening debate on these issues. The cumulative effect would therefore impose a disproportionate burden on South Wales Police's resources.

Conclusion

35. As stated above, the Commissioner's approach is to assess whether the level of disruption, irritation or distress caused to the authority by the request is disproportionate or unjustified, when weighed against the purpose and value of the request. When making the assessment, he has also taken into account the context and history of the request, ie the wider circumstances surrounding the request.

36. The Commissioner notes that, if the request were to be taken in isolation, then it would not necessarily be regarded as vexatious. However, in considering these matters, the Commissioner has regard to the context and history of a request. The Commissioner notes South Wales Police's representations in relation to its previous dealings with the complainant. He has seen the effect of past requests, contacts and complaints from the complainant, a large proportion of which relate to the subject matter associated with the request, ie the issuing of a NIP.

37. The Commissioner is prepared to accept that, cumulatively, South Wales Police has spent a significant amount of time and resources in dealing with the complainant's information requests, in addition to separate subject access requests and other correspondence and contacts from the complainant.

38. The Commissioner notes the evidence provided by South Wales Police about the frequency and tone of the complainant's previous communications with them. He accepts that this has gone beyond what its staff should reasonably expect to receive and has had the effect of causing distress.

39. The Commissioner considered whether the request amounts to unreasonable persistence by the complainant in attempting to re-open issues which have previously been addressed. He notes that the subject matter of the request ie the issuing of a NIP and associated allegations of perjury have already been comprehensively addressed by South Wales Police and its PSD some nine years earlier. The Commissioner

also notes that the complainant served a prison sentence relating to the allegations of perjury.

40. The Commissioner also considers that, based on the evidence provided, it is reasonable to conclude that the complainant will continue to submit requests, and/or maintain contact about the subject matter regardless of any response provided to the request in question. The disruption to South Wales Police resulting from any continuing correspondence would be disproportionate. The Commissioner is therefore satisfied that, in the context of South Wales Police's previous and ongoing dealings with the complainant, compliance with the request would result in a disproportionate burden on its resources.
41. In considering whether there has been a deliberate intention to cause annoyance, the Commissioner has noted the effect that the complainant's communications have had on South Wales Police staff and previous warnings issued to the complainant in relation to communications with them. In the Commissioner's view, if the complainant did not consciously set out to cause annoyance then he appears to have been reckless as to the effect the frequency and tone of his communications, including this information request, were having on the recipients.
42. In this case the Commissioner does not consider that sufficient weight can be placed on any serious purpose served by the request to justify the disproportionate burden of disruption, irritation and distress it imposes on the police and its individual members of staff.
43. The Commissioner therefore considers that South Wales Police is entitled to rely on section 14(1) to refuse the request on the grounds that it is vexatious.

Right of appeal

44. 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

45. 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.
46. 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

Anne Jones
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF