

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 26 June 2017

**Public Authority:** Chief Constable of Staffordshire Police  
**Address:** Police Headquarters  
PO Box 3167  
Stafford  
ST16 9JZ

### Decision (including any steps ordered)

---

1. The complainant requested information relating to the authorisation that led to the outsourcing of Staffordshire Police pensions to a third company, 'Mouchel/Kier'.
2. Having answered previous connected requests, Staffordshire Police (the police) refused this request relying on section 14(1) (Vexatious requests) of the FOIA. The Commissioner's decision is that the police acted correctly in relying on the section 14(1) FOIA exemption. However, she found that the police breached section 10 as it failed to provide a substantive response within 20 working days.
3. The Commissioner does not require the police to take any steps to ensure compliance with the legislation.

### Request and response

---

4. On 23 June 2016, the complainant wrote to the police and requested information in the following terms:

*"Did Kier hold the required Home Office Authorisation to administer Police Pensions in June 2015? (1987 PPR/S, Pensions Act, FOIA 2000)*

*Does Kier currently hold such authorisation? (1987 PPR/S, Pensions Act, FOIA 2000)"*

5. On 27 July 2016 the police responded to the complainant's request citing section 14(1) of the FOIA. It also stated that *"any similar requests will not be answered"*.
6. The complainant requested an internal review on 1 August 2016. Staffordshire Police confirmed to the Commissioner that it would not be conducting an internal review.

## Scope of the case

---

7. On 10 September 2016 the complainant contacted the Commissioner to complain about the way his request for information had been handled. He initially complained that the police had not responded to his request for internal review.
8. The Commissioner addressed this complaint and wrote to the police on the 10 October 2016, asking it to respond to the complainant's request for internal review. The police contacted the Commissioner to explain that it would not be conducting an internal review and was happy to proceed without a review being conducted.
9. The Commissioner will therefore address the police's handling of the complainant's request of 23 June 2016 and its decision to apply section 14(1) of the FOIA.
10. The Commissioner has also considered whether the Council complied with section 10 of the FOIA.

## Reasons for decision

---

### Section 14 – vexatious requests

11. Section 14(1) does not oblige a public authority to comply with a request for information if the request is vexatious.
12. The term *"vexatious"* is not defined in the FOIA. The Upper-Tier Tribunal considered the issue of vexatious requests in the case of the Information Commissioner and Devon County Council vs Mr Alan Dransfield (GIA/3037/2011) (Dransfield) and concluded that the term could be defined as *"manifestly unjustified, inappropriate or improper use of a formal procedure"*..
13. The Dransfield case identified four factors that may be present in vexatious requests:

- the burden imposed by the request (on the public authority and its staff)
  - the motive of the requester
  - harassment or distress caused to staff
  - the value of serious purpose of the request.
14. 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).
15. The Commissioner has identified a number of “*indicators*” which may also be useful in identifying vexatious requests. These are set out in her published guidance on vexatious requests.<sup>1</sup> In short they include:
- abusive or aggressive language
  - burden on the authority
  - personal grudges
  - unreasonable persistence
  - unfounded accusations
  - intransigence
  - frequent or overlapping requests; and
  - deliberate intention to cause annoyance.
16. 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.

---

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

17. Where information requests impose a significant burden on them, the Commissioner considers that public authorities should weigh the impact of the request on the authority 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.
18. A public authority can also consider the context of the request and the history of its relationship with the requester when this is relevant. However, it is important to recognise that one request can in itself be "*vexatious*" depending on the circumstances of that request.
19. During the Commissioner's investigation the police explained that the complainant's original complaint related to the transfer of his personal data to a third party organisation called Mouchel (now Kier). The police confirmed that this occurred in order for it to administer the payment of police pensions. The police explained that the Commissioner provided a response to this issue in previous decision notices FS50625765 and FS50632501 however, the complainant has continued to make further complaints and requests for information to the police.
20. The police stated that the complainant had already been provided with a substantial amount of information including two box files containing his personal information following receipt of a subject access request. The police also explained that the complainant had previously been provided with information in response to his first information request including a redacted copy of the Mouchel contract. The police explained that the complainant made a request on the 29 December 2015 which asked for "*the cost of the public purse for the implementation of outsourcing Police Pensions; specifically the cost of the contract itself between SP and Mouchel-Kier*". The police stated that the redactions to the Mouchel contract included the redaction of financial information. The redactions were agreed by the Commissioner in her previous decision notice dated 18 February 2016. The police stated that this is one of the issues which the complainant appealed to the Tribunal, which was heard on 4 September 2016, the result is awaited.
21. The police also stated that on the 4 May 2016 it determined a previous information request as vexatious and as a result of this, the complainant made a complaint to the Commissioner. The police confirmed that the Commissioner upheld its decision to refuse the complainant's request stating that the he had "*...failed to appreciate that the volume and frequency of his own requests had itself been a causative factor in these delays*". The police also stated that this complaint was being dealt with at the same time it received the complainant's request that this notice addresses.

22. During the Commissioner's investigation the police stated that this continued, unrelenting cycle of requests, internal reviews and investigations by the ICO places an undue and disproportionate burden on its FOI team and that complying with the many information requests and correspondence from the complainant had already taken up a *"hugely disproportionate"* and *"large"* amount of its time which as a result delayed the handling of other requests.
23. The police also explained to the Commissioner that the complainant's correspondence had caused *"considerable stress and distress to a number of staff"* at the police and that *"this has placed an additional strain"* on its resources.
24. The police explained that when it received the complainant's request on the 23 June 2016 it could have answered it but it was decided to treat the request as vexatious because of the previous impact on the police and the fact that the request related to the same subject matter as the previous request which was refused as vexatious.
25. The police provided a timeline of correspondence, requests, complaints and Tribunal cases in relation to the complainant. The Commissioner is aware that the complainant has made two previous requests to the police which have both been refused under section 14(1) of the FOIA. The Commissioner has issued decision notices FS50625765 and FS50632501 in relation to the handling of these two requests and the Commissioner upheld the police's decision to apply section 14(1) of the FOIA in both cases.
26. The Commissioner notes that the previous requests for information to the police, along with the request this notice addresses, all relate to the police's decision to outsource its pension services to Mouchel. The Commissioner is therefore aware that the complainant has made a request relating to the same subject matter as the previous requests for information.
27. The Commissioner considered whether the request had a serious purpose or value and considered that it did. However, disclosures already made and other requests under consideration already went a long way to addressing this and severely diminished the value that responding positively to the complainant's further requests would add.
28. The Commissioner considered the history of the complainant's information requests to the police. She decided that, taken as a whole, his behaviour went far beyond making simple information requests to a point which amounted to unreasonable persistence and obsessiveness. It is clear the complainant is discontented with the police decision to make the transfer and is using a stream of information requests to

pursue the substantive issue of his perceived grievance in a way that amounts to an abuse of the process provided by FOIA.

29. In conclusion, the Commissioner has accepted the evidence from the police that addressing the information request would be unlikely to satisfy the complainant's grievance regarding the outsourcing of pensions and further requests are likely to be made. Taking all the above into account, the Commissioner's decision is that the request is vexatious and the police is entitled to rely on section 14(1) of the FOIA.

### **Section 10 – Time for compliance**

30. Section 1(1)(a) of FOIA requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
31. Section 10(1) requires that the public authority comply with section 1 promptly and in any event no later than 20 working days after the date of receipt of the request.
32. In this case, as the request for information was made on 23 June 2016 and the police responded on 27 July 2016 the police breached section 10 of the FOIA by failing to respond to the request within 20 working days.

## 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: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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** .....

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**