

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 July 2023

Public Authority: Police Service of Northern Ireland

Address: Police Headquarters
65 Knock Road
Belfast
BT5 6LE

Decision (including any steps ordered)

1. The complainant requested from Police Service of Northern Ireland (PSNI) information about the procedures relating to the interaction between the Policing Board, and Armagh City Banbridge and Craigavon Council. PSNI determined the request to be vexatious and refused it under section 14(1) of FOIA.
2. The Commissioner's decision is that the request was vexatious and therefore PSNI was entitled to rely on section 14(1) of FOIA to refuse to comply with the request for information. The Commissioner does not require PSNI to take any steps as a result of this decision.

Request and response

3. On 3 May 2023 the complainant requested information under the FOIA of the following description:

"Please provide all information relating the procedures relating to the interaction between the Policing Board, Armagh City Banbridge and Craigavon Council, and how they adhere to those procedures.

If PSNI have not adhered to the procedures, then a further request is as to why."

4. On 18 May 2023 PSNI responded and considered the request to be exempt by virtue of section 14(2) of FOIA. On the same day, the complainant replied and stated she would like to challenge the assessment that her request is vexatious.
5. On 8 June 2023 PSNI provided its review response and maintained its original position.
6. During the investigation of this case, PSNI considered the Commissioner's guidance on section 14(1) of FOIA and the Upper Tier Information Tribunal case of Dransfield. PSNI said this case makes clear the question of whether a request is vexatious and decided to change its reliance from section 14(2) to section 14(1) of FOIA.

Reasons for decision

7. This reasoning covers whether PSNI is entitled to rely on section 14(1) of FOIA to refuse to comply with the request for information.

Section 14(1) – vexatious requests

8. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
9. The word "vexatious" is not defined in FOIA. However, as the Commissioner's guidance¹ on section 14(1) states, it is established that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation, or distress.
10. FOIA gives individuals a right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
11. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.

¹ <https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/dealing-with-vexatious-requests-section-14/>

12. The emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield*². Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.
13. Dransfield established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
14. The four broad themes considered by the UT in Dransfield were:
 - the burden on the public authority and its staff;
 - the motive (of the requester);
 - the value or serious purpose (of the request); and
 - any harassment or distress (of and to staff).
15. However, the UT emphasised that these four broad themes are not a checklist, and they are not exhaustive. The UT stated:

"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" (paragraph 82).

PSNI's view

16. PSNI confirmed it had received a total of 10 FOI requests from the complainant in relation to a dispute involving a Housing Association, and police calls to a property. There were also generalised requests on policing powers and adherence to Human Rights legislation. PSNI said eight of these FOI requests are closed and two FOI cases are currently on-going. For ease of reference, PSNI provided the Commissioner with details and dates of all the complainant's requests received in 2023.

² <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

17. PSNI also dealt with five Subject Access Requests for personal data from the complainant. It highlighted to the Commissioner that the requests seek information on a housing issue involving [name redacted], a neighbourhood dispute as well as how PSNI had handled the complainant's housing dispute and police action taken against the complainant.
18. PSNI informed the Commissioner that over the last year it had received a large volume of emails from the complainant following police action against her. Police were called in relation to the complainant's neighbourhood dispute and she expressed her dissatisfaction of the manner in which PSNI and other public bodies (including local authorities) had handled these disputes. PSNI said it received emails in rapid succession and on occasions mixing up the subject matter of requests, which are both closed and open. PSNI emphasised to the Commissioner that many of the requests were unclear in what is being sought, and the tone of the emails was antagonistic.
19. It considered this request to be part of a pattern or requests designed to burden PSNI and to cause disruption. It said many of the requests are not clear in scope and have the effect of lacking serious purpose or value.
20. PSNI explained that the burden on it was not just a question of financial resources, but includes issues of distraction and diversion from other work. PSNI said the complainant appears to be continuing to pursue and repeat her requests, and they now appear to lack purpose or value and are unclear on the information being sought. PSNI also said it would receive further requests on similar themes once a response had been issued. PSNI's Corporate Information team and District Policing teams have spent many hours handling these requests.
21. PSNI added that when it asked for clarification, it is often not forthcoming. It had asked the complainant to clarify which public body it referred to in this request, and that it is still unclear what is meant by "procedures relating to the interaction between PSNI and Armagh Banbridge and Craigavon District Council," as well as reasons as to why such procedures on interaction may or may not be followed. PSNI said this could be interpreted a number of ways, and potentially require exhaustive searches across PSNI: searches of Information Sharing Agreements; PSNI policies and procedures for policing the local district/council area; and any specific commercial agreements with the Council. PSNI stated the cumulative effect of handling all of the requests is diverting its resources and burdening the service.

22. With regard to this request, PSNI said the complainant is seeking all information relating to procedures about the interaction with the "Policing Board", a local council in Northern Ireland and how they adhere to those procedures. PSNI explained that the Northern Ireland Policing Board is a separate legal entity to PSNI, as they are an accountability body for policing in Northern Ireland. When asked for clarification, the complainant confirmed she means PSNI. It further explained "Local Policing Response Teams and Local Neighbourhood Policing Teams, deliver local policing in the Armagh City, Banbridge and Craigavon District. Policing Districts are co-terminus with Council boundaries in Northern Ireland. A local council is a separate legal entity in itself set up under local government legislation in Northern Ireland."
23. PSNI said it makes a large volume of information proactively available on how it carries out its policing activities. In relation to Armagh Banbridge and Craigavon District, PSNI referred the Commissioner to a link to its website where further information is available.
24. Although PSNI had asked the complainant for clarification on which body is referred to in this request, PSNI said it is still not clear what is meant by her request and reiterated its reasoning (paragraph 20) on how it could be interpreted. PSNI believes this particular request does not hold any value or purpose. Handling these requests, PSNI said, is diverting resources from other request handling and is diverting local policing resources in trying to provide answers to this complainant as well as from across other PSNI business areas, for example legal services.

The Commissioner's decision

25. The Commissioner is keen to stress that in every case, it is the request itself that is vexatious and not the individual who submits it. In reaching a decision in this case, the Commissioner has balanced the purpose and value of the request against the detrimental effect on the public authority.
26. In the Commissioner's guidance on section 14(1) of FOIA, consideration of the background and history of the request can be taken into account. Therefore, the Commissioner is mindful that PSNI has received 10 FOI requests relating to a dispute involving a Housing Association, and police calls to a property. The Commissioner notes the linked and overlapping requests along with the additional correspondence illustrating the complainant's concerns. Also noted, are the responses to her questions which she had not accepted. The complainant submitted further requests and the information she asked for was sometimes ambiguous. The Commissioner notes a particular request where the complainant had tried to negotiate PSNI paying compensation.

27. Having viewed the further representations from PSNI and the Appendix with details of all the requests received, the Commissioner acknowledges the responses to each of these. He accepts PSNI has provided the complainant with reasonable responses including explanations, and that there is information available on how PSNI conducts its local policing activities. Further information is also available on PSNI's website relating to Armagh, Banbridge and Craigavon District.
28. Given the volume of linked, repetitive queries targeted towards the same service and team, the Commissioner recognises that this is having a significant impact on PSNI.
29. The Commissioner is of the view there is limited public interest in the type of information the complainant is seeking within the given context. It is clear that the information request has been made in relation to matters affecting only the complainant. The Commissioner understands that responding to this request would likely generate further related requests and correspondence, thereby placing extra burden on the resources of PSNI.
30. In the circumstances of this case, and on the evidence provided, the Commissioner believes that the request was vexatious. Therefore, PSNI was entitled to rely on section 14(1) of FOIA to refuse the request.

Right of appeal

31. 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@justice.gov.uk.

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

32. 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.
33. 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

Joanna Marshall
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