

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 October 2024

Public Authority: Chief Constable of Dorset Police
Address: Winfrith
Dorchester
Dorset
DT2 8DZ

Decision (including any steps ordered)

1. The complainant requested information about speed cameras on a particular stretch of road.
2. Dorset Police relied on section 14(1) of FOIA (vexatious) to refuse the request.
3. The Commissioner's decision is that the request was not vexatious and therefore Dorset Police was not entitled to rely upon section 14(1) of FOIA to refuse it.
4. The Commissioner also finds that Dorset Police did not provide a refusal notice within the statutory deadline as required under section 17(1) of FOIA.
5. The Commissioner requires Dorset Police to take the following step to ensure compliance with the legislation.
 - Issue a fresh response to the request that does not rely on section 14(1) of FOIA.
6. Dorset Police must take this step within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

7. On 12 December 2023, the complainant wrote to the public authority and requested information in the following terms:

“I would like to ask if the average speed cameras on the A338 are the only permanent cameras of the type operated by Dorset Police?

If not where are the others located?

What criteria did Dorset Police use when deciding to install these cameras on the A338 rather than the normal speed cameras more commonly used?

What are the costs of these compared to normal speed cameras?.”
8. This request was refused on 13 March 2024 as being vexatious.
9. On 30 July 2024, Dorset Police provided an internal review response upholding the original decision but acknowledged that the initial response had been provided outside the statutory deadline.

Reasons for decision

Section 14(1) – vexatious requests

10. The following analysis considers whether the request was vexatious.
11. 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.
12. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s guidance on section 14(1)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.
13. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is

¹ <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.

14. 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.
15. 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* [2012] UKUT 440 (AAC), (28 January 2013) ("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.
16. 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.
17. The four broad themes considered by the Upper Tribunal 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).
18. However, the UT emphasised that these four broad themes are not a checklist and are not exhaustive. It 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).

Dorset Police's view

19. It is the view of Dorset Police that the request is part of an ongoing campaign about speed cameras on a particular stretch of the A338, and

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

that the request displayed unreasonable persistence in an effort to push forward a particular agenda in relation to a speed camera and its accuracy, which stemmed from a personal dispute about a speeding ticket. Dorset Police argued that the personal nature of the matter, the persistence of the complainant and the fact that the campaign could result in misinformation being disseminated to the public devalued the request.

20. Dorset Police explained to the Commissioner that the request was part of a pattern of six overlapping requests made by the complainant since August 2022, which was disproportionately burdensome to Dorset Police. Dorset Police explained that whilst, on the face of it, six requests did not appear to be burdensome, the requests contained 27 separate questions.
21. In its representations to the Commissioner, Dorset Police set out all the requests and internal reviews generated by the complainant and gave details about the claimed burden that the requests and internal reviews had placed on Dorset Police's limited FOI resource.
22. Dorset Police is of the view that the complainant will continue to make further requests on the same topic and is concerned about the burden that such requests will place on its FOI resource going forward.

The complainant's view

23. The complainant is of the view that Dorset Police has not provided an adequate explanation as to why it considers the request to be vexatious for the purposes of section 14 of FOIA.
24. The complainant also considers the request to have a strong value due to the high public interest in the speed cameras on the particular stretch of the A338 in question.

The Commissioner's decision

25. In cases where a public authority is relying on section 14(1), it is for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.
26. The Commissioner has carefully considered the points made by the complainant and Dorset Police.
27. The Commissioner acknowledges the complainant's past history of overlapping and detailed requests and the background to the original request.

28. However, each request must be assessed and judged on its own individual merit, and it is the request itself that must be vexatious, not the person making it.
29. In cases where the issue of whether a request is vexatious 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.
30. In its representations to the Commissioner, Dorset Police has not provided sufficient evidence that this request has the potential to cause a disproportionate or unjustified level of disruption, irritation, or distress.
31. The Commissioner acknowledges that, if the complainant were to make further requests on the back of a response to this request, any such further correspondence could be deemed unreasonably persistent. It is the Commissioner's view that the complainant is treading a fine line between requests that are vexatious and those which are not.
32. The Commissioner considers that a public authority must meet a high bar to demonstrate that section 14(1) of FOIA is engaged. In this case Dorset Police did not provide the Commissioner with sufficient evidence to persuade him that the bar is met.
33. The Commissioner believes that Dorset Police was not entitled to rely on section 14(1) of FOIA to refuse the request.
34. Dorset Police must now issue a fresh response to the request.

Procedural matters

35. Section 17 of FOIA requires a public authority to issue a refusal notice, stating any exemptions being relied upon to withhold information, within 20 working days. The Commissioner finds a breach of section 17(1) of FOIA as the refusal notice was issued more than 20 working days after receiving the request.

Other matters

36. The Commissioner wishes the complainant to note that FOIA provides a right of access to recorded information; this does not extend to the right to ask questions, explanations, clarification of information or debate the contents of information unless the response to those questions, requests for explanation or clarification is already held in recorded form.

37. There is no obligation under FOIA for a public authority to provide an internal review process. However, it is good practice to do so and, where an authority chooses to offer one, the section 45 Code of Practice sets out, in general terms, the procedure that should be followed. The code states that reviews should be conducted promptly and within reasonable timescales. The Commissioner has interpreted this to mean that internal reviews should take no longer than 20 working days in most cases, or 40 in exceptional circumstances.
38. In this case, Dorset Police took over four months to provide the complainant with an internal review response.

Right of appeal

39. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

40. 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.
41. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Michael Lea
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF