

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 November 2024

Public Authority: Chief Constable of Cleveland Police
Address: St Marks House
St Marks Court
Thornaby
Stockton on Tees
TS17 6QW

Decision (including any steps ordered)

1. The complainant requested information from Cleveland Police about members of staff working on Operation Magnolia and their relevant training. Cleveland Police relied on section 14(1) of FOIA (vexatious) to refuse the request.
2. The Commissioner's decision is that the request was vexatious and therefore Cleveland Police was entitled to rely upon section 14(1) of FOIA to refuse it.
3. The Commissioner does not require any steps.

Request and response

4. On 27 May 2024, the complainant wrote to Cleveland Police and made a request for information in the following terms:

“Regarding staffing selection of officers working on operation Magnolia.

1. Has the current and pasted SIO that have worked on operation magnolia since 2014, being accredited at Professionalising Investigations Programme (PIP) level 3 or above, and Specialist Child Abuse Investigator Development Programme trained.

2. Has the current and pasted investigation officers had the correct training. For example, staff experienced or trained in interviewing suspected sexual offenders.
3. Have the officers currently working on operations magnolia received training relating to the Ministry of Justice (2022) Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses and/or CPS (2013) Guidelines on Prosecuting Cases of Child Sexual Abuse
4. Since the start of operation magnolia how many officers have temporarily moved up in rank in order to fill a position. For example, a sergeant acting as a temporary instructor or a inspector acting as a chief instructor. If any, how many officers that were placed in a temporary role had the correct training for that role.”
5. Cleveland Police responded on 30 May 2024, advising that this request had been refused under section 14.
6. Cleveland Police did not provide an internal review to this request.

Reasons for decision

Section 14(1) – vexatious requests

7. The following analysis considers whether the request was vexatious.
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 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.
10. FOIA gives individuals a greater 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.

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

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.
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* [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.
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 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).
15. 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).

Cleveland Police's view

16. Cleveland Police explained that the complainant had made multiple requests for information relating to Operation Magnolia, which is an ongoing investigation. The Police advised that in 2024 alone, it had received a total of 24 requests from the complainant which all related to Operation Magnolia. It advised that it had responded to 6 of the 24

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

requests, but due to the fact the operation is still ongoing, most of the requested information has been refused under section 31.

17. Cleveland Police added that from March 2023, it had received in total 35 requests from the complainant, all of which related to Operation Magnolia.
18. Cleveland Police advised that when assessing the scope of the requests it had received it was clear that they were overly broad, and repetitive in nature. This was due to the fact that the requests all related to Operation Magnolia, but range from things such as the level of training staff have that are working on the operation, the Police's contact with victims and how victims reported the specific crimes. Due to the range in requests, the Police advised that it appeared that the primary intent of the requests were to seemingly cause disruption rather than to obtain meaningful information.
19. Cleveland Police informed the Commissioner that its information rights department was only small and, due to this, it also had a limited sized team. It explained that the effort required to process all of the requests made by the complainant relating to Operation Magnolia, has placed a significant burden on its resources. It stated that if it was required to respond to all the requests, this burden would have a wider impact on its overall efficiency and effectiveness, which could lead to delays in processing other legitimate requests. The Police also noted that, as the requests relate to Operation Magnolia, if it was required to respond to all the requests, it would likely need to contact the Senior Investigating Officer on Operation Magnolia to provide more detailed responses, which would in turn divert resources away from critical police duties like crime prevention and investigation.
20. Cleveland Police explained that it had repeatedly set out its reasoning for using section 31 when responding to requests by the complainant which related to Operation Magnolia and had even offered to have a face to face meeting with the complainant to address any specific concerns. It further added that the complainant had mentioned that they were acting on behalf of others and in a way which can be characterised as a "campaign", which again has caused disruption to the Force's activities.

The complainant's view

21. The complainant advised that the requested information has a serious purpose and is of value, meaning that the requests were not intended to be vexatious.
22. The complainant informed the Commissioner that they were acting in support of the victims of historical child abuse, which Operation

Magnolia is investigating. The complainant advised that the group had concerns over the quality of the investigations being conducted and this was then primary reasoning for the requests.

23. The complainant concluded that the requested information would allow for any wrongdoings to be presented and the Police would then be held accountable for these actions.

The Commissioner's decision

24. 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.
25. In reaching a decision in this case, the Commissioner has balanced the purpose and value of the request against the detrimental effect of responding to the request on Cleveland Police.
26. Whilst the Commissioner acknowledges that the reasoning behind making such requests is of importance to not only the complainant but other members of the public, he also recognises that the impact placed on Cleveland Police if it were required to respond to such a large number of broad requests.
27. The Commissioner notes that the complainant has raised concerns in their complaint regarding the handling of Operation Magnolia. Whilst FOIA may be used to support openness and transparency, it should not be used as a way to address complaints and concerns with the conduct of a public authority. These matters are better directed to the public authority directly. In the circumstances of this case, such matters would be better referred to the Police directly or to the relevant regulatory body who oversees the conduct of the Police. It is outside the Commissioner's remit to comment on a public authority's handling of a specific matter.
28. Having reviewed a number of the requests submitted by the complainant, the Commissioner is satisfied some of the requests are broad in nature and agrees that responding to such requests would likely cause an unjustified level of disruption, irritation, or distress for the staff working directly on Operation Magnolia.
29. The Commissioner also notes that Cleveland Police has confirmed to the complainant that the operation is still ongoing and therefore most information being requested would likely be exempt from disclosure under FOIA. Attempting to pursue similar requests when the outcome is already known demonstrates an unwillingness to take on board prior responses.

30. From the evidence available to him, the Commissioner considers that Cleveland Police has attempted to respond openly and positively to previous requests where it has been able to do so. However, given the volume of linked or repetitive queries submitted by the complainant, the Commissioner recognises that this is having a significant negative impact on its ability to carry out its normal duties.
31. The Commissioner believes that Cleveland Police was entitled to rely on section 14(1) of FOIA to refuse the request because it was vexatious. He does not require any further steps to be taken.

Other matters

32. The Commissioner would like to remind Cleveland Police that the Code of Practice outlines that it is a matter of good practice to complete an internal review under FOIA. In the circumstances of this case, Cleveland Police offered to complete a review upon request, but it failed to do so despite the complainant requesting one.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: 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.

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