

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 22 February 2016

**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 illegal Notices of Intended Prosecution (NIPs) issued by South Wales Police in relation to 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 5 March 2015 the complainant wrote to South Wales Police and requested information in the following terms:

"I have now obtained the information on the illegal site on the A4058, Broadway, Pontypridd and would now like the information behind the decision to pull the site from South Wales Police camera locations in the hope that nobody would find out what they were doing. This includes:

1. How drivers [sic] were being illegally prosecuted by being issued with NIP's that should never have been issued.
2. How many drivers were sent these illegal NIP's up until 2006 when the site was pulled.

3. Who, if any police officer or officers have been prosecuted for perverting the course of justice in any involvement in the pursuing of motorists who were issued with these illegal NIP's".
3. South Wales Police responded on 31 March 2015 and stated that it did not hold the information requested.
4. On 31 March 2015 the complainant requested an internal review of South Wales Police's handling of the request.
5. South Wales Police provided the outcome of the internal review on 17 April 2015 and 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 20 May 2015 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 5 March 2015.

### **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 Commissioner's guidance<sup>1</sup> on the application of section 14(1) FOIA refers to an Upper Tribunal decision<sup>2</sup> which establishes the concepts of 'proportionality' and 'justification' as central to any consideration of whether a request is vexatious.

---

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

<sup>2</sup> Information Commissioner vs Devon County Council & Dransfield [2012] UKUT 440 (AAC) (28 January 2013)

10. The guidance suggests that the key question the public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. Where this is not clear, the Commissioner considers that public authorities should weigh the impact on the authority and balance this against the purpose and value of the request. Where relevant, public authorities will need to take into account wider factors such as the background and history of the request.
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 requests. 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. South Wales Police referred to a decision notice<sup>3</sup> issued by the Commissioner relating to a previous complaint made by the applicant. In this earlier case the Commissioner upheld South Wales Police's application of section 14 to a request for information submitted by the applicant on 20 February 2014 about the same mobile speed camera site.
14. South Wales Police contend that the complainant is continuing to harass, antagonise and argue with any member of South Wales Police he comes into contact with and is using FOIA requests as a tool to do so.
15. South Wales Police advised that in December 2014, the complainant lodged a complaint with its Data Protection Office that information recorded on the Police National Computer (PNC) about him was inaccurate. The reason for the complaint is that the PNC record shows the complainant was convicted of perjury in 2005, but he maintains that the record should state that he was convicted of 'recklessness'. The complainant has not provided South Wales Police with evidence to

---

<sup>3</sup> [https://ico.org.uk/media/action-weve-taken/decision-notice/2014/1042824/fs\\_50539357.pdf](https://ico.org.uk/media/action-weve-taken/decision-notice/2014/1042824/fs_50539357.pdf)

support his contention and enquiries which it has made with the courts have confirmed that the PNC record is correct. The complainant made a similar complaint in 2012 and was advised that the information recorded on the PNC was found to be accurate and he was advised to direct any further enquiries to the courts.

16. South Wales Police considers that the request in isolation is vexatious as it is clearly asking for information which does not exist and the complainant was advised of this in the initial response to the request. However, South Wales Police considers it important to note the wider history and context behind the request. It considers that the representations it submitted in relation to its application of section 14 to the request of 20 February 2014 remain of relevance in this case, as the subject matter of both requests is the same ie relate to the same mobile speed camera site. However, South Wales Police submitted "new" representations and evidence in support of its application of section 14 to the request of 5 March 2015.
17. South Wales Police contends that if it complied with the request of 5 March 2015 it would be entering into further argument with the complainant. In its initial response to the request, it confirmed it did not hold information relevant to the request as it does not issue "illegal" Notices of Intended Prosecution (NIP). In an attempt to assist the complainant, South Wales Police explained in its initial response what happens when NIPs are issued in error. It also confirmed that its Central Ticket Office does not hold offence data as far back as 2006, which is the period covered by part of the request. Despite this, the complainant requested an internal review, stating that an illegal NIP was issued to him in 2003. South Wales Police believe that any further response would invite further dispute from the complainant and it cannot see any end to the argumentative communications between the complainant and itself. The communications from the complainant present a burden on the limited resources South Wales Police has available and, cumulatively, are causing distress and disruption. The complaint about the speeding offence is now 12 years old and South Wales Police provided evidence to suggest that the complainant has made it clear that he is not going to stop submitting requests on the subject matter (as referred to later in this notice).
18. 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.
  - a) **Abusive or aggressive language**
19. South Wales Police referred to the evidence of aggression on the part of the complainant between 2004 and October 2014, as referenced in its

representations detailed in the decision notice issued by the Commissioner in relation to an earlier request (see paragraph 13 above). Since October 2014 South Wales Police advised that the complainant has not been particularly abusive as such. However, his constant harassment, accusations and antagonistic correspondence and communications with South Wales Police remain at a level to cause distress, as his manner is easily perceived as aggressive.

20. The complainant has made numerous telephone calls to South Wales Police, many of which have had to be terminated due to his aggressive tone, accusations and hostility. South Wales Police advised that no member of staff has ever been able to placate the complainant and he continues to argue any point possible. For example, during a telephone conversation on 9 January 2015 the complainant advised a member of staff at South Wales Police that he was going to publish the names of everyone involved in his complaints on a public website, along with his opinions about them.

**b) Deliberate intention to cause disruption**

21. South Wales Police provided a number of instances and occurrences which it considered demonstrate the complainant's intention to cause disruption South Wales Police or its staff. These are summarised below.
22. With reference to the complainant's contention that his PNC record shows incorrect information, on 7 January 2015 he emailed an officer at South Wales Police and asked "Please respond to my question relating to why you think it is acceptable that your department is publishing completely untrue information about me". The officer concerned had previously explained to the complainant during a telephone discussion on 23 December 2014 that information about an individual's criminal history ie their PNC record was not 'published'. Despite being advised of this, the complainant has continued to insist in writing that South Wales Police has published untrue information about him. South Wales Police has previously investigated information recorded on the PNC about the complainant and believe it to be accurate. South Wales Police contends that there is no appropriate answer to the question posed, because the officer concerned clearly would not think it is acceptable to hold or publish untrue information about any individual.
23. On 13 January 2015 the complainant telephoned South Wales Police and asked to speak to a Data Protection Disclosure officer, who was not available. He was asked whether his call was in relation to complaints he had made and he confirmed it was. As a result the complainant was advised to speak to the Professional Standards Department (PSD) who deal with such complaints. The complainant refused this advice and insisted he wanted to speak to the Data Protection Disclosure Officer as

it was that department who were holding untrue information about him. The complainant continued to argue with the call taker until the call was terminated.

24. On 14 January 2015, the complainant telephoned the Data Protection Office again and confirmed that the call was not in relation to his complaints. He was transferred to a member of the Data Protection team where he proceeded to dispute the outcome of a report he had received from the PSD about his complaints, and inaccurate information recorded about him on the PNC. The call lasted for 11 minutes before it was transferred to a Data Protection Disclosure Officer, where he continued to argue about the PSD report and the record of his conviction. The Data Protection Disclosure Officer again pointed out to the complainant that information recorded on the PNC was not 'published' information.

**c) Unfounded allegations**

25. South Wales Police provided the Commissioner with a number of examples to demonstrate unfounded allegations made by the complainant. A number of these are summarised below.
26. In December 2014 the complainant wrote to South Wales Police requesting a review of his subject access request. He indicated that he had waited six months for a response and asked that "the internal review will explain why you think it's ok to ignore my request and also, to destroy data that formed part of a live investigation which is still ongoing to this day". South Wales Police consider this is an unfounded allegation as a response to the subject access request was issued within the 40 day period. South Wales Police is of the view that the remark made about ignoring his requests is an attempt to enter into an argument and cause annoyance and disruption. South Wales confirmed that any data that had been destroyed had been done so in accordance with appropriate information retention guidelines.
27. In December 2014, the complainant wrote to South Wales Police again alleging that it was holding:

"completely untrue information about me and I would like the matter investigated. It states on my report that I was convicted of perjury but this is completely untrue as I never entered a plea to that charge as it was dropped at my trial due to the cps plea bargaining with me. I was convicted of recklessness which is also on my PSR so I would like to discuss the matter with somebody within the data unit or be enlightened as to how the department can hold completely false information about me for nearly ten years".



28. South Wales Police confirmed that information recorded about the complainant on the PNC was fully investigated by the PSD who issued a report on various complaints he had made in January 2015. The report indicates that the issue had been previously raised by the complainant in 2012. However, South Wales Police conducted further enquiries with the courts, following which the complainant was advised that the information held on the PNC was found to be accurate. South Wales Police has established that the complainant has made attempts to appeal his conviction and sentence for perjury. On 25 November 2014 the appeal court dismissed the application for leave to appeal. South Wales Police's position is that the information recorded on the PNC is accurate.
29. In February 2015 the complainant telephoned South Wales Police's Data Management and Disclosure Unit Manager about the conviction of perjury recorded on the PNC. During the conversation the complainant contradicted himself by saying that South Wales Police Officers lied to the CPS and then later that they had colluded with the CPS. The complainant also stated that there was a "deep rooted problem of corruption" and named the current Chief Constable, a former Chief Constable and a Chief Superintendent. He also mentioned a stitch up with police, that he was a victim of the UK legal system and alleged that the police had deliberately perverted the course of justice, that a Chief Inspector had lied to his MP and that the whole legal system is corrupt.

**d) Unreasonable persistence**

30. South Wales Police contend that the request has been submitted to further contest a speeding ticket issued to him in 2003. Due to the length of time which was elapsed, South Wales Police have been unable to evidence the communications the complainant made with its Central Ticket Office at the time, however, it is aware that the offence was contested at the time.
31. South Wales Police advised that in the last 12 months the complainant has made a number of complaints to the PSD which he had raised previously a number of years earlier. South Wales Police provided the Commissioner with a report written by its PSD on complaints made by the complainant, which was concluded in January 2015. Although the complainant is still in contact with the PSD, there are currently no ongoing complaints at present and the complainant has exhausted all avenues of appeal.
32. On 9 January 2015 the complainant spoke to South Wales Police's Data Protection Disclosure Officer who advised that, contrary to his claims, all evidence shows that the conviction of perjury was accurate. The complainant advised that he would never accept it was accurate and

said "I am not going to let it go until the day I die". He again alleged that South Wales Police were publishing incorrect information about him. The officer referred to a discussion with the complainant the previous day, where it had been explained that information about convictions was not "published". This call was eventually terminated by South Wales Police as no progress could be made with the issue concerned. Later the same day the complainant sent an email to South Wales Police asking that it "stop publishing untrue information about him as this is libel". South Wales Police responded advising the complainant to contact the Independent Police Complaints Commission (IPCC) or the ICO. The complainant replied "I'm fully aware of the avenues open to me as I am well versed in it after studying it for the last 10 years".

33. On 21 January 2015 the complainant telephoned South Wales Police's Data Protection Office three times in 15 minutes. He then spoke to the Data Protection Disclosure Office who provided advice about a request for court transcripts. The complainant strenuously alleged police corruption until the call was terminated. He immediately rang back and was advised that there was nothing more that South Wales Police could say on the matter and, as officers were busy, the call was again terminated. The complainant called back again and continued to argue with the officer until the call was terminated for the third time. Later that day the complainant emailed South Wales Police and stated:

"...further to our conversation I would still like to organise a meeting with the management of the data department as I have clear evidence I was not convicted of perjury. I would like to present this evidence to the department which will correct the information you hold about me". South Wales Police considers this incident also demonstrates unfounded allegations and a deliberate attempt to cause annoyance.

34. In any event, South Wales Police made enquiries with the courts who confirmed that they had also received contact from the complainant on the issue of the conviction. The court confirmed that the complainant was sentenced for the offence of perjury, contrary to section 1(1) of the Perjury Act 1911. South Wales Police responded to the complainant advising that if he had any evidence to prove his allegations that he needed to provide it to them. The complainant replied stating he would provide the information only if he could meet with an officer about the matter. The complainant was invited to provide the evidence by email. Numerous calls between the complainant and South Wales Police ensued on the subject matter where the complainant continued to make unfounded allegations, during which he advised that he would never let the matter go. In one conversation on 13 February 2015, in relation to the conviction in 2005, the complainant stated "I can't rest until that is amended". When he was advised to let the issue go he replied "never



ever ever". To date, the complainant has not provided evidence to back up his claims, despite invitations to provide the evidence in writing.

**e) Intransigence**

35. South Wales Police provided examples which it considered evidences the complainant rejecting attempts to advise and assist and shows no willingness to engage with staff. Some of these examples are detailed below. South Wales Police also considers that some of the examples demonstrate that the complainant has no obvious intention to obtain information and evidence of unfounded accusations.
36. On 20 January 2015, following an information request submitted by the complainant on 14 January 2015, South Wales Police asked him to clarify what he meant by "all data relating to the Ticket Manager System". The complainant responded, stating "All data means all data, I can't be more clear than that so stop trying to stall on the issue as its not the first time you keep trying to act like you haven't got a clue what I am requesting. With regard to the years, between 2000 and 2014 will suffice for now".
37. Following a comment the complainant made on a public website that he had not received responses to his FOIA requests within the statutory time limit South Wales Police emailed him a copy of all responses which had been issued in relation to his requests. He was also advised of the date that South Wales Police had responded to a particular request he had mentioned in his comment, which was issued within the 20 working day timescale. The complainant responded stating that:

"No, you did not respond within the timescale as is required by law and stop copying and pasting responses from other requests I have made. This is not acceptable and will not be tolerated as you are clearly treating my requests with the contempt you have treated the complaints I have raised within your department and PSD. I now request an internal review of the matter for the reasons I have outlined above".
38. In addition, despite a number of requests, the complainant has not provided the PSD with a transcript of his interview recording in August 2004 in support of allegations he made about the officer who interviewed him at that time.

**f) No obvious intent to obtain information.**

39. South Wales Police referred to the fact that the complainant submits requests for information and asks questions to which there is obviously no recorded information. It considers such communications are an attempt to engage in argument and cause disruption and annoyance. For example, in this particular case, the request relates to "illegal" NIPs

issued by South Wales Police. In its initial response to the request, South Wales Police confirmed that it did not issue "illegal" NIPs and went on to explain the process in terms of an NIP issued containing incorrect information eg incorrect offence date and time. Having been advised that no information was held, the complainant proceeded to request an internal review and subsequently referred the matter to the Commissioner.

40. The complainant has submitted other requests where it is clear that no recorded information would be held, some examples of which are listed below. In the majority of cases he has exhausted the authority's internal review process and has referred a number of requests to the Commissioner for investigation.

#### **Request 9 January 2015**

"All documentation which states that once a report is compiled and sent out in the post, the person cannot question the author of the report and what has been written about him or her.

All documentation which states that up until that report is finalised, an officer, and in this case [name redacted] is ready and willing to speak to me but as soon as it is finalised he refuses to speak to me.

All documentation that states that a chief superintendent of a police force can state to an MP something completely different to an investigating officer who he assigns to investigate a serious complaint against his force".

#### **Request 18 May 2015**

"I would like to know what permissions you have to put totally false information on the PNC about somebody when you know this can affect a persons job, promotion prospects etc".

#### **g) Frequent and overlapping requests**

41. South Wales Police advise that between January 2015 and October 2015 the complainant has made:
- 15 FOIA requests
  - 11 request for internal reviews
  - 6 appeals to the ICO
42. South Wales Police provided the Commissioner with a spreadsheet showing requests received from the applicant in 2014 and 2015. The majority of the requests can be linked to an NIP which was issued by South Wales Police in 2003 and an associated conviction in 2005.

43. In addition to written requests for information, South Wales Police advise that it has received additional email correspondence and telephone contact from the complainant and provided a contact log to the Commissioner. The call log demonstrates the frequency of contact from the complainant both in writing and by telephone. For example, the complainant made 16 telephone calls to South Wales Police between December 2014 and February 2015. Some of the calls were lengthy, lasting an hour or more. The contact log also shows that a number of calls were terminated because of the repetitive nature of the discussion.
44. The majority of the contacts from the complainant relate to the same subject matter ie they can be linked back to the NIP which was issued in 2003 (and associated matters such as his conviction, information recorded on the PNC and complaints submitted about these issues).

**h) Personal grudges**

45. South Wales Police is of the view that the complainant has a personal grudge against a particular officer who arrested him in 2004. This officer was named in a request submitted by the complainant in January 2014. South Wales Police also stated that the complainant has also named a number of other staff and officers, many of whom work within the PSD and accuses them of lying and being corrupt as they were involved in investigating complaints he has submitted to South Wales Police. The complainant has also accused the Chief Constable of corruption.

**i) Futile requests**

46. South Wales Police considers that all of the requests and contacts from the complainant can be linked back to an NIP that was issued to him in 2003. It therefore maintains that the issue at hand is one that individually affects the requestor and that has already been conclusively resolved. South Wales Police referred to the report issued by the PSD in January 2015 in relation to the matter. South Wales Police maintain that the complainant has exhausted all avenues with regards to his complaints about the subject matter.

**Conclusion**

47. 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.
48. The Commissioner notes South Wales Police's representations in relation to its previous dealings with the complainant. In this case, South Wales

Police has been able to demonstrate that it has engaged to a significant extent with the complainant, both verbally and in writing on matters associated with the subject matter of the request. 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, complaints and other correspondence and telephone calls from the complainant.

49. The Commissioner accepts that the request in this case can be linked to the complainant's complaints and concerns against South Wales Police in relation to a NIP issued in 2003, ie the issue at hand is one that individually affects the requestor. Issues relating to the subject matter have been subject to independent investigation via various complaints, reviews and court cases. The Commissioner notes that the complainant has raised concerns at actions South Wales Police has taken and questioned the accuracy of information recorded about him on the PNC. The Commissioner is unable to make any comment on the veracity of the claims made by the complainant; however, he accepts that the request in this case is a further attempt to re-open matters and challenge the decisions and actions taken by South Wales Police.
50. The Commissioner notes the evidence provided by South Wales about the language and tone contained within some of the complainant's previous communications. He accepts that this has gone beyond what its staff should reasonably expect to receive. He considers that the comments made, together with accusations and allegations the complainant has made against members of staff, would clearly be harassing to the individuals concerned. The Commissioner notes that a number of telephone calls have had to be terminated as a result of the complainant's hostile manner.
51. The Commissioner also considers that, based on the evidence available to him, it is reasonable to conclude that the complainant will continue to submit requests, and maintain other contact with South Wales Police about the subject matter regardless of any response provided to the request in question. He notes that the complainant has specifically indicated a number of times that he is not prepared to let the matter drop.
52. Since April 2014 the Commissioner has received 9 complaints from the complainant about the way in which South Wales Police has dealt with his information requests. He has also viewed more FOIA requests that the complainant has submitted to South Wales Police through a public website. The Commissioner notes that a number of his FOIA requests can be linked back to issues relating to a NIP issued in 2003. The nature of the dispute was outlined in his decision notice issued on a previous

complaint from the complainant (as referred to in paragraph 13 of this notice) and will not be repeated here.

53. The Commissioner considers it reasonable to conclude from the tone and content of many of the complainant's wider requests, and the information posted on a public website, that he is increasingly using the FOIA mechanism as a vehicle for venting frustration and publicising his discontent with South Wales Police. It therefore seems likely he will continue to submit requests and contact South Wales Police through other channels on the subject matter.
54. 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. The Commissioner agrees with South Wales Police that responding to the request would not resolve this matter, but would instead prolong arguments about the subject matter when South Wales Police has already made its position clear. Pursuing numerous avenues of complaint and not being satisfied with any view that differs from one's own is a common characteristic in cases involving vexatious requests.
55. Taking into account all the circumstances of the case, the Commissioner considers that a strong case has been presented to demonstrate that the request is vexatious. It was not the intention of the legislation that individuals should be allowed to pursue personal grievances to an unreasonable extent through the use of the FOIA. Limited public resources should not be spent on continuous unproductive exchanges. The FOIA gives significant rights to individuals and it is important that those rights are exercised in a reasonable way. There comes a point when the action being taken and the associated burden being imposed on the authority is disproportionate to the objective that the complainant is attempting to achieve. In the Commissioner's opinion that point has been reached in this case.
56. 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.
57. Taking into consideration the findings of the Upper Tribunal in Dransfield that a holistic and broad approach should be taken in respect of section 14(1), the Commissioner has decided that South Wales Police was correct to find the request vexatious. Accordingly, the Commissioner finds that section 14(1) has been applied appropriately in this instance.

## Right of appeal

---

58. 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)

59. 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.
60. 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**