

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 January 2025

Public Authority: Chief Constable of Kent Police
Address: Sutton Road
Maidstone
Kent
ME15 9BZ

Decision (including any steps ordered)

1. The complainant requested various policies from Kent Police and also requested that Kent Police provide explanations on events described within the requests. Kent Police relied on section 14(1) of FOIA (vexatious) to refuse the requests.
2. The Commissioner's decision is that the requests were vexatious and therefore Kent Police was entitled to rely upon section 14(1) of FOIA to refuse them.
3. The Commissioner does not require any steps.

Background

4. The complainant made a total of 10 requests to Kent Police dated from 23 June 2024 to 30 June 2024. Due to the number of requests, the Commissioner has reproduced the requests and response information in an annex. This can be found at the bottom of this decision.

Reasons for decision

Section 14(1) – vexatious requests

5. The following analysis considers whether the requests were vexatious.

6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
11. 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.
12. 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

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

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

- any harassment or distress (of and to staff).

13. 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).

Kent Police’s view

14. Kent Police advised that due to high interest in policing activity, it receives a large volume of requests. These requests place a huge pressure on the small teams in charge of ensuring lawful compliance with FOIA. It added that whilst it recognises that some pressure placed on staff is accepted, such pressure would only be accepted where a request is proportionate and made with the intention of openness and transparency.
15. Kent Police advised that between the period of 23 June 2024 and 30 June 2024, the complainant submitted a total of 11 requests. It stated that other than one request, the remaining 10 all related to policy or invited Kent Police to make comments or opinions.
16. Kent Police informed the complainant that the submission of multiple overlapping requests by a single applicant, some of which had been submitted prior to a reasonable length of time for any responses to be provided to previous requests, places a considerable and oppressive burden of work onto a small team.
17. Kent Police acknowledged that whilst it could be argued that each request, taken in isolation, would not overly inconvenience Kent Police, it is the requests’ combined impact which must be considered. It informed the Commissioner that for this particular complaint the following factors were present: a large number of overlapping requests, a large volume of requests submitted over a very short period time, requests being very broad, leading to a wider scope and repeated subject matter within requests.
18. Kent Police added that it appeared the requests under FOIA were an attempt to pursue matters already being addressed by the Professional Standards Department. It added that by making these further requests, it can be evidenced that a disproportionate and unjustified level of burden and disruption is being placed onto Kent Police resources, with engagement likely to result in further disruption and the unjustified use of limited resources.

19. Kent Police stated that the complainant had already made more than a dozen complaints to Kent Police since 2023, adding that if the complainant is concerned about officers or members staff, it would be more appropriate to raise any concerns directly, rather than submitting multiple requests under FOIA.
20. Kent Police concluded that when considering the value or serious purpose of the requests, the frequency and pattern the requests can be described as both a fishing expedition and a campaign of dissatisfaction with Kent Police. It explained that these types of requests do not correlate with the true purpose of FOIA.

The complainant's view

21. The complainant advised the Commissioner that the requests had not been made in a way that was intended to cause disruption to the service, but rather in an attempt to location information for an upcoming case review.
22. The complainant advised that the refusal to provide the requested information, appeared to be a way to frustrate and deny the complainant of Kent Police's views and policies on specific issued raised by the complainant.

The Commissioner's decision

23. 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.
24. The Commissioner is satisfied that 10 requests from one individual, over a 7 day period would clearly place an unjust burden on Kent Police. The Commissioner also notes that the complainant has confirmed that the request for information has been submitted in order to serve a private matter rather than to serve the wider public interest.
25. The Commissioner considers that if Kent Police was required to provide a response to all 10 requests, this would likely lead to resources being diverted from other requests and day to day business.
26. The Commissioner also notes that a public authority is only required to provide recorded information. This means the complainant is not entitled to information which may be in someone's head. Regardless of whether the complainant has concerns over Kent Police's practice, the complainant would not entitled to views held by members of staff or opinions which are not already in a recorded format.

27. Based on the above, the Commissioner believes that Kent Police was entitled to rely on section 14(1) of FOIA to refuse the requests because they are vexatious.

Annex

28. On 23 June 2024, the complainant wrote to Kent Police and requested information in the following terms:

"I'd like to know Kent Police policy on false witness statements eg - if the police take a victim/witness statement in good faith and later Kent police find the statement is inaccurate or false what then is the force policy and what is the law regarding victim/witness statements that are known to be false being submitted to the CPS?"

29. On 23 June 2024, the complainant wrote to Kent Police and requested information in the following terms:

"I'd like to know Kent Police policy on filing of a crime report based on the conclusion that its not in the public interest to pursue the investigation? Is this more common with one off incidents or with repeated incidents? What criteria is used to decide and is any victim of a crime that is filed because it is deemed not in the public interest to pursue allowed to challenge the decision?"

30. On 23 June 2024, the complainant wrote to Kent Police and requested information in the following terms:

"I'd like to know Kent Police policy on investigations where a NFA is given? I'd especially like to know what force policy is after a suspect in a crime refutes allegations with evidence, proving the allegations are false and is given a NFA would this allegation still be circulated amongst officers and in new crime reports/allegations involving the same person as if it was still a credible allegations? Or would it be highlighted as a false account/allegation?"

31. On 23 June 2024, the complainant wrote to Kent Police and requested information in the following terms:

"I'd like to know kent police policy on harassment and the gathering of evidence in relation to harassment. If an incident is deemed a low level public order offence would it still be investigated as harassment if it was one in a long history of low level public order offences perpetrated by the same person against the victim? If there were any witnesses to this would they be requested to make a statement?"

Would it be counter productive if incidents of harassment were filed because the OIC didn't know the history and thought it was just a low level public order offence? In an incident of harassment would it be appropriate to know the history of the incidents and to have an up to date and accurate crime report that could be disclosable to the victim in a SAR?

If there was CCTV footage would it be secured to 1) establish that suspect was there at the time and date reported ?

2) to evidence the claim of harassment by their physical actions/physical demeanour looking, gesturing posture even if the CCTV had no sound?"

32. On 23 June 2024, the complainant wrote to Kent Police and requested information in the following terms:

"I'd like to know Kent Police policy on CCTV footage evidence. Does an investigating officer need to view CCTV footage themselves or can they just take the word of someone in another organisation about a criminal incident caught on CCTV (eg - a landlord or a security guard)?

If a situation arose when Kent Police officers requested an organisation to supply CCTV footage and that organisation consistently gave the wrong footage or claimed the incident wasn't caught on camera or the camera was broken. Would there be a point when that organisation would become the focus of a police investigation/inquiry?

If CCTV footage is being viewed or investigated by a civilian in another organisation, do the police vet that individual, making sure they don't know the suspects or are involved with the crime?"

33. On 23 June 2024, the complainant wrote to Kent Police and requested information in the following terms:

"I'd like information on Kent Police [vulnerable] person policy. How do they decide who is [vulnerable] and do they contact doctors, caseworkers, social services, family etc in regards to identifying a [vulnerable] person?

How do Kent Police deal with the bullying or harassment of [vulnerable] people, is there clear cut rules around this, I assume it would be investigated thoroughly?

Is there a special unit/team for this?

If someone was identified as being a [vulnerable] person would that be something that Police would tag to any 999 calls from the person or criminal incidents involving the person?"

34. On 23 June 2024, the complainant wrote to Kent Police and requested information in the following terms:

"I've received an Email from [name redacted] about crime report [redacted]. She says that I can get the information I want by making a freedom of information request and [that] she couldn't comment further as its sub judice? I can't see how this [supplied] is sub judice, please explain or give me the information I've been requesting for over a year."

35. On 24 June 2024, the complainant wrote to Kent Police and requested information in the following terms:

"I'd like to know if the Police Standards Department can refuse to investigate a complaint against a police officer?

Can the PSD direct an officer to ignore requests for information?

If a officer has drawn conclusions from interviewing a suspect can those views then be overlooked or discredited by the PSD or a superior ranking office"

36. On 24 June 2024, the complainant wrote to Kent Police and requested information in the following terms:

"If criminal activity is reported and evidence could be recorded on someone's mobile phone would the police investigate that phone's content?

If a false allegation was made about someone and the person making the allegations may have content on their mobile that would discredit their allegations could the police search for that data?

In regards to someone being reported as being involved in the sale and supply of drugs with a specific name and times and dates given of a drug transactions what would be the standard Kent police procedure/policy of investigation"

37. On 30 June 2024, the complainant wrote to Kent Police and requested information in the following terms:

"1) How do/would Kent Police identify malicious policing in their own force?

2) What is Kent Police policy on malicious policing

- A- either failing to investigate a crime against a person
- B- or wrongfully arresting someone/threatening to wrongfully arrest someone
- 3) If a member of the public complains about the behaviour of Kent police officers and [receives] a series of apologies from Kent police, at what point would Kent Police escalate investigations above the PSD to higher ranking officers, or would they not?
- 4) If a complaint against the police is investigated by the IOPC or the OPCC and opinions and conclusions are drawn that later were found to be flawed (either by new evidence or incident) who in Kent police would be obliged to correct that information?"
38. On 12 July 2024, Kent Police responded to all requests and advised that the information was exempt under section 14(1). A position which it maintained during its internal review.

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.

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