

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 May 2014

Public Authority: Chief Constable of Lancashire Constabulary
Address: Police Headquarters
Saunders Lane
Preston
PR4 5SB

Decision (including any steps ordered)

1. The complainant requested information relating to a mobile speed camera. Lancashire Constabulary initially disclosed some information, but cited section 14(1) (vexatious requests) when the complainant pursued a full response.
2. The Commissioner's decision is that the request was not vexatious and so section 14(1) did not apply.
3. The Commissioner requires Lancashire Constabulary to take the following steps to ensure compliance with the legislation.
 - Provide a full response in respect to the outstanding information.
4. The public authority must take these steps within 35 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

5. On 27 October 2013 the complainant wrote to Lancashire Constabulary and requested information in the following terms:

"Please supply the number of vehicles recorded by the mobile speed camera on 12 October 2013 on the A682 Rawtenstall By Pass that showed [...] the following speeds:

[35 to 50 MPH inclusive]"

6. Lancashire Constabulary responded to this request initially on 22 November 2013 and disclosed to the complainant, amongst other information, details for recorded speeds of 47 to 70 MPH. A further exchange of correspondence followed in which the complainant sought clarity on information recording speeds of 35 to 46 MPH. After earlier stating that this information was not held, a response of 2 December 2013 confirmed that some relevant information relating to those speeds was held, but the request was refused under section 14(1) (vexatious requests) of the FOIA.
7. The complainant subsequently requested an internal review. Lancashire Constabulary responded with the outcome of the review on 5 January 2014. The conclusion of this was that the refusal under section 14(1) was upheld.

Scope of the case

8. The complainant contacted the Commissioner on 10 January 2014 to complain about the refusal of his information request. The complainant indicated at this stage that he did not agree that his request was vexatious.

Reasons for decision

Section 14

9. Section 14(1) of the FOIA provides that a request may be refused if it is vexatious. The approach of the Commissioner, as set out in his guidance

on this provision¹, is that the key question to ask when considering whether a request can be accurately characterised as vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.

10. Where it is relevant to do so, a public authority may take into account the context and history preceding the request. This means that a request may be vexatious when made by one person and not vexatious when made by another person.
11. The central argument of Lancashire Constabulary in this case is that the purpose of the complainant in making this information request was to frustrate the Constabulary's process with the aim of avoiding paying a speeding penalty. The Constabulary stated that the complainant's vehicle had been involved in an alleged speeding offence and that it believed that the complainant was following the advice provided by websites that purport to advise on evading speeding penalties.
12. The Commissioner would note at this point that requesting information for the purpose of defending oneself against a speeding allegation is not in itself necessarily vexatious. If the complainant believed that the information requested could be relevant to his defence, rather than the request having been made with the aim of frustrating the process, this would indicate that the complainant did have a serious purpose in making his request.
13. The Commissioner's guidance notes that the motivation of a requester can be a relevant factor when considering if a request is vexatious. If, for example, a requester is abusing their right of access by making a request with the aim of deliberately disrupting the public authority, such a request may be vexatious. In this case, if it was the case that the complainant was seeking only to disrupt the speeding penalty process, rather than having any interest in the requested information, this would be a relevant factor.
14. When making this argument, Lancashire Constabulary stated that the complainant had *"asked numerous questions that are covered within the type of template letters that can be found on the internet and which people are advised to rely upon when seeking to escape from a speeding*

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http://www.ico.org.uk/for_organisations/guidance_index/~media/document_s/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx

fine". In evidence for this, it provided links to three examples of these websites.

15. The Commissioner's view is that he does not have sufficient evidence to conclude that the complainant made his request with the sole or main intention of frustrating the prosecution process. First, he has not been provided with strong evidence that the complainant followed advice from any of the aforementioned websites. Whilst these websites do exist, the Constabulary has not provided convincing evidence that the complainant took the wording of his request from any of them. Such evidence could have been in the form of, for example, a template from such a website with the same or similar wording to the complainant's request. No such evidence was provided, however, and neither was the Commissioner able to locate such information himself through his own searches.
16. Secondly, even if the complainant did follow the advice from a website of this kind, this would not necessarily mean that his request was not made for a serious purpose. As mentioned above, if he intended to use this information in his defence, this would indicate that his request had a serious purpose, and that would remain the case even had he followed the recommendation of a third party on the wording of that request.
17. The Commissioner's approach is that a request with a serious purpose may nonetheless be vexatious if compliance with it would have a disproportionate impact upon the public authority. Therefore, notwithstanding the preceding analysis, the Commissioner has gone on to consider whether this request would impose a significant burden upon the Constabulary.
18. The Commissioner would note first here that, as mentioned above at paragraph 6, the complainant did pursue the Constabulary for a further response following the initial response to his request. This correspondence arose, however, as a result of the Constabulary failing to respond fully to the request initially and there can be no element of vexatiousness from the complainant having pursued a full response.
19. Secondly, the Constabulary stated in its correspondence with the Commissioner that it was "*not clear*" that compliance with the request would have exceeded the cost limit imposed by section 12. The Commissioner takes this comment and that the Constabulary did not cite section 12 as an indication that the cost of compliance with the request would not have exceeded the limit provided by section 12. As a result, his view is that this request would not have imposed a significant burden upon the Constabulary.
20. In conclusion, the Commissioner has found that there is insufficient evidence to conclude that the request was made for the sole or main

purpose of frustrating the prosecution process. He has also found that the request would not impose a significant burden upon the Constabulary. For these reasons, his overall finding is that the request was not vexatious. At paragraph 3 above the Constabulary is now required to provide a response in respect to the outstanding information.

Other matters

21. As mentioned above at paragraph 6, it was necessary for the complainant to contact the Constabulary several times before it stated accurately what information it held that fell within the scope of the request. As the Constabulary will be aware, it should not be necessary for a requester to contact it repeatedly prior to receiving a response that is accurate for the purposes of section 1(1)(a) and it should ensure that there is no repetition of this issue in relation to future requests.

Right of appeal

22. 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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

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

23. 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.
24. 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

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