

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 July 2015

Public Authority: Chief Constable of Thames Valley Police
Address: Thames Valley Police HQ
Oxford Road
Kidlington
Oxfordshire
OX5 2NX

Decision (including any steps ordered)

1. The complainant has requested information concerning the use of RIPA (the Regulation of Investigatory Powers Act 2000) by Thames Valley Police ("TVP"). TVP refused the request as being 'vexatious'. The Commissioner's decision is that the request is not vexatious and he requires TVP to take the following steps to ensure compliance with the legislation:
 - disclose the requested information or issue a fresh refusal notice in compliance with section 17 of FOIA.
2. TVP 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

3. On 5 February 2015, the complainant wrote to TVP and requested information in the following terms:

"Please provide information detailing the number of incidents whereby the use of Chapter 2 of Part 1 of the Regulation of Investigatory Powers Act was used to identify journalistic sources"

by Thames Valley Police. In each case please specify the publication the journalist belonged to and the name of the journalist and/or position at the newspaper. Also provide the reason for the use of the power and the outcomes if any”.

4. TVP responded on 6 March 2015. It stated that it found the request to be vexatious under section 14(1) of the FOIA.

5. When asking for an internal review the complainant stated:

“I am seeking to appeal the decision as the request made was a single request and not part of a ‘campaign’ as stated in the response. That other news organisations have written similar requests should be incidental to the final decision made as to whether to disclose the information. Each FOI request should be treated on an individual basis and not automatically assumed to be part of a group of FOIs. I was unaware of similar requests that have been highlighted ... and my individual query was purely coincidental in how it was timed.

I also wish to point out that the single request made by myself was on a matter of genuine interest – that of the protection of confidential sources for journalists. As such this should not represent a ‘vexatious’ request by its very definition – nothing in the request is designed to annoy, or irritate or cause offence, but rather shed light on an area of important public concern”.

6. Following an internal review TVP wrote to the complainant on 22 April 2015. It maintained its position.

Background

7. The request relates to similar subject matter as already considered by the Commissioner in case FS50578306 and needs to be considered in line with that case.

8. TVP has confirmed that it wishes to rely fully on the arguments which it gave in that case so the Commissioner has considered this case based on exactly the same rationale.

9. As in the case above, the requester is a local journalist.

Scope of the case

10. The complainant contacted the Commissioner on 19 May 2015 to complain about the way his request for information had been handled. He said:

"... in essence I feel the public interest far outweighs their argument of a disproportionate burden and that it cannot possibly be a vexatious request as it was one single request by an individual unrelated to any other requests made by other organisations".

11. The Commissioner will consider the application of section 14(1) below.

Reasons for decision

Section 14 – vexatious request

12. Section 14(1) provides that a public authority is not obliged to comply with a request for information if the request is 'vexatious'.
13. The term 'vexatious' is not defined in the FOIA. However, the Commissioner has identified a number of 'indicators' that may be useful in identifying vexatious requests. These are set out in his published guidance on vexatious requests. In short they include:
- Abusive or aggressive language
 - Burden on the authority
 - Personal grudges
 - Unreasonable persistence
 - Unfounded accusations
 - Intransigence
 - Frequent or overlapping requests
 - Deliberate intention to cause annoyance
14. The fact that a request contains one or more of these indicators will not necessarily mean that it will be vexatious. All the circumstances of a case will need to be considered in reaching a judgement as to whether a request is vexatious.
15. The Commissioner's guidance suggests that, if a request is not patently vexatious, 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. In doing this the Commissioner considers that a public authority should weigh the impact of the request upon it and balance this against the purpose and value of the request.

16. Where relevant, public authorities also need to take into account wider factors such as the background and history of the request.
17. TVP has relied heavily on central advice issued when responding to the request. As mentioned above, it has relied fully on the same arguments as those used in case FS50578306. TVP has added no further arguments in relation to this specific case.
18. This is a single request made by a local journalist. As evidenced in his request for an internal review, he has made no related requests and he is acting alone.
19. In the absence of any further arguments from TVP, and in line with the same reasoning in FS50578306, the Commissioner again concludes that section 14(1) is not engaged and the request is not vexatious.

Right of appeal

20. 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

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

21. 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.
22. 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

Steve Wood
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SK9 5AF