

Freedom of Information Act 2000 (Section 50)

Decision Notice

Dated 31st May 2006

Public Authority: The Chief Officer of Sussex Police (“Sussex Police”)

Address: **Sussex Police Headquarters**
Church Lane
Lewes
East Sussex
BN7 2DZ

Summary Decision and Action Required

The Commissioner is satisfied that Sussex Police have complied with the Act in applying section 14(1) lawfully. Section 14(1) states:

Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.

- 1. Freedom of Information Act 2000 (the ‘Act’) – Applications for a Decision and the Duty of the Commissioner**
 - 1.1 The Information Commissioner (the ‘Commissioner’) has received an application for a decision whether, in any specified respect, the complainant’s request for information made to Sussex Police has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the ‘Act’).
 - 1.2 Where a complainant has made an application for a decision, unless:
 - a complainant has failed to exhaust a local complaints procedure, or
 - the application is frivolous or vexatious, or
 - the application has been subject to undue delay, or
 - the application has been withdrawn or abandoned,the Commissioner is under a duty to make a decision.
 - 1.3 The Commissioner shall either notify the complainant that he has not made a decision (and his grounds for not doing so) or shall serve a notice of his decision on both the complainant and the public authority.

- 1.4 Even though the Commissioner may judge a request for information to have been vexatious, it does not follow that the application for a decision is also vexatious.

2. The Complaint

- 2.1 The complainant has advised that on 22nd October 2005 the following information was requested from the Sussex Police in accordance with section 1 of the Act.
- 2.2 "Please could you advise me how many cases have been investigated within the County of Sussex in to child abuse and paedophile activities involving members of the Catholic Church and religious orders such as Priests and church officials who have committed sexual offences between the January 1998 onwards and how many of there investigations have lead to successful prosecutions?

What support is offered to victims of sexual abuse in cases investigated by the police either current or historical offences?

How many members of the Sussex police are engaged in the investigation of sexual offences and child protection issues (child protection teams)?"

- 2.3 On 21st November 2005 the public authority refused the request on the grounds that it was vexatious.
- 2.4 This decision was reviewed on the 5th December 2005 and the initial decision upheld, although the public authority did provide some information regarding victim support this was not under the auspices of the Act.

3. Relevant Statutory Obligations under the Act

- 3.1 **Section 1(1)** provides that –

"Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
- (b) if that is the case, to have that information communicated to him."

- 3.2 **Section 14(1)** provides –

"Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious."

4. Review of the case

- 4.1 The focus of the Commissioner's investigation has been on the stated ground for the refusal of the complainant's request for information. The Commissioner has not considered whether, in the event that he does not agree that section 14 has been properly applied, there exist any other grounds for the refusal of the request.
- 4.2 The complainant has stated that the public authority was wrong to refuse the request on the basis that it was vexatious. The complainant claims to be a freelance journalist who uses the Act to obtain information for his work and that the basis for deeming his request vexatious is flawed as he would in effect have to justify each and every request that he makes. Furthermore the complainant alleges that he has been a victim of crime and that the disclosure of this information would assist both himself and other victims in understanding what measures the public authority employs for the purposes of detecting and investigating crimes of the nature described in the request.
- 4.3 The Commissioner contacted Sussex Police on the 17th March and 10th April 2006. Sussex Police advised the Commissioner that it had refused the complainant's request on the grounds that the applicant had previous criminal convictions and that the motive for the application may be to facilitate criminal or unlawful acts. It considers this behavior to have had the effect of harassing Sussex Police as a public authority.

5. The Commissioner's Decision

Without making a final ruling, the Commissioner is sceptical that the reasons given by Sussex Police justify a conclusion that the request this case was vexatious. The identity and motives of a requester are unlikely to render a request vexatious.

However, it is not necessary to make a ruling on that aspect as the Commissioner has been informed in a parallel case relating to the Cabinet Office that, during a one year period, the complainant had made 347 requests to different police forces, 412 to the Ministry of Defence and 22 to the Cabinet Office. The Commissioner has considered whether this was a vexatious request by reference only to the volume of requests made by the complainant.

The Commissioner's approach has followed and developed that which he adopted in Case FS50078594 (Birmingham City Council). The major difference in this case is that the volume of cases affected a number of public authorities, not just one. In his consideration of this complaint, the Commissioner has remained mindful that section 14 applies to requests received by a Public Authority, not to the person who has submitted the request. Nevertheless, the Commissioner has concluded that he

is entitled to take into account his knowledge as to the total volume of requests made by the same individual.

In making this decision he has drawn upon **Freedom of Information Act Awareness Guidance No 22: Vexatious and Repeated Requests** (See Annex A) and has also considered jurisprudence from other legislative environments (See Annex B). However, it is important to note that the Awareness Guidance Notes are not an addendum to the Act and are intended to introduce some of the key concepts and suggest approaches to be taken in the consideration of the application of the exemption.

In line with Awareness Guidance No 22, the Commissioner's general approach has been to consider it can be demonstrated that the requests;

- would impose a significant burden on the public authorities taken together;
- have the effect of harassing them; or
- could otherwise fairly be characterised as obsessive or manifestly unreasonable.

In this case, the volume of requests known to have been made is in excess of 750 in a single year. This fact is not in dispute. This is more than seven times the number of requests made in Case FS50078594. The Commissioner considers that, although it may not have been the explicit intention of the complainant to cause inconvenience or expense, the main effect of the requests would be to impose disproportionate inconvenience and expense to the public authorities taken together.

He considers that it is entirely appropriate to consider the aggregated effect of dealing with all the requests known to have been made across the public sector. The frequency and number of requests demonstrates that the effect of complying with the requests would clearly place a very substantial burden on the public authorities concerned. The Commissioner considers that in this case it can be clearly demonstrated that dealing with the request(s) would divert a substantial amount of the resources of the public authorities concerned. This would be an entirely unjustified burden and not a good use of public funds. It would also discredit the Freedom of Information legislation and impose delays on those with fewer and more reasonable requests.

The Commissioner has also concluded that the volume of requests means that, taken together, they formed a pattern whose cumulative effect would be characterised by any reasonable person as obsessive and manifestly unreasonable and having the effect of harassing the public authorities.

In this case, therefore, it is the Commissioner's view that the scale of the complainant's requests means that each successive request, including the one on which this complaint is based, represented a continuation of behaviour which was



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vexatious. Accordingly the Commissioner concludes that the request on which this complaint was based was vexatious and that Sussex Police complied with the Act in applying section 14(1) lawfully.

The Commissioner stresses that he has reached the above conclusions by reference only to the volume of over 750 requests from a single requester.

6. Right of Appeal

- 6.1 Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "Tribunal"). Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

- 6.2 Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 31st day of May 2006

Signed

Richard Thomas
Information Commissioner

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF