

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date 20 September 2006

Public Authority: Crown Prosecution Service
Address of Public Authority: 50 Ludgate Hill
London
EC4M 7EX

Summary

The complainant requested information relating to evidence that he submitted to the public authority in connection with an alleged criminal offence. The public authority deemed the request as vexatious having had correspondence with the complainant for a number of years. Having investigated this case, the Commissioner is satisfied that the application of section 14 by the public authority was correct.

The Commissioner's Role

1. The Commissioner's role is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 ('the Act'). This Notice sets out his decision.

The Request

2. On 21 April 2005, the complainant made the following request for information from the public authority:

"... did the evidence provided to you pass the tests set out in the Code for Crown Prosecutors for the institution of criminal proceedings? Otherwise, why did you not then request from me any additional information you identified as necessary for the evidence to pass those tests?"

3. The complainant did not receive a response to this request and therefore wrote again to the public authority on 5 June 2005 chasing them for a reply. This resulted in a letter from the public authority to the complainant dated 8 June 2005. This letter states that the request is being treated under section 14 (1) of the Act.

4. The complainant requested, by letter of 6 November 2005, an internal review of the decision not to release the information.
5. The public authority informed the complainant by letter of 20 December 2005 that the review had been completed and the initial decision had been upheld. This letter also explained that the information is not held.

The Investigation

Scope of the investigation

6. On 13 July 2005 the complainant contacted the Information Commissioner to complain that he had not been provided with information following a request to the public authority.

Chronology

7. The Commissioner initially wrote to the public authority on 2 November 2005 to point out that it had not offered the complainant an internal review in accordance with section 17 of the Act.
8. Once the review had been conducted and the complainant confirmed that he wished to pursue his complaint regarding this request, the Commissioner emailed the public authority. The initial email was sent on 25 January 2006 but was not received by the public authority. It was therefore sent again on 24 February 2006.
9. The Commissioner informed the public authority that the Refusal Notice provided to the complainant was not compliant with section 17 of the Act and requested detailed comments as to the application of section 14 in this matter. The public authority responded by detailed letter of 15 March 2006. This letter had with it a large number of enclosures to demonstrate the reasoning behind the application of section 14 and the level of ongoing correspondence that had occurred between the complainant and public authority over a period of two years.

Findings of the investigation

10. The Commissioner is satisfied that the public authority's application of Section 14(1) is correct.
11. The Commissioner is satisfied that the information requested is not held by the public authority in any event.

Analysis

12. The Commissioner has considered the public authority's response to the complainant's request for information.

Vexatious Request

13. **Section 14(1)** provides that –

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

14. **Awareness Guidance 22** (copy attached to this Decision Notice)

This guidance, produced by the Information Commissioner's Office is not an annex to the Act but demonstrates criteria to assist in the application of section 14. It is designed as a tool to assist in the consideration of what constitutes a vexatious request.

In line with the above guidance, the Commissioner's general approach was to consider whether the public authority had clearly demonstrated that the request would impose a significant burden and:

- clearly does not have any serious purpose or value;
- is designed to cause disruption or annoyance;
- has the effect of harassing the public authority or
- can otherwise fairly be characterised as obsessive or manifestly unreasonable.

15. *Significant Burden*

The Commissioner considers that whatever the complainant's intention, a significant and unreasonable burden was imposed. The volume of correspondence received by the public authority containing requests and questions along the same theme over a lengthy period would have taken up a lot of time and in turn, public money to deal with. The Commissioner has only seen a selection of this correspondence but is satisfied that, in its entirety, it would have imposed a significant and unreasonable burden.

Harassment

The complainant's repeated correspondence relating to the same or similar issues could be viewed as harassment whether intended by the complainant or not. This viewpoint is supported by the letters sent to the public authority, encompassing complaints about the police officers and staff of the public authority that had dealt with his case in the first instance, and his correspondence thereafter.

The public authority had explained their role to him in a letter dated 30 December 2003 and that they were unable to assist with his enquiry but he continued to write to them.

Obsessive/Manifestly Unreasonable

Given the level of correspondence, its ongoing theme and the tone of those letters, the Commissioner is of the opinion that requests made demonstrate obsessive and manifestly unreasonable behaviour.

Further, the complainant had written to the public authority on 22 June 2004 enclosing evidence and asking that action be taken if it passed requisite tests. He asked that the public authority let him know how they intend to proceed and stated that if they did not contact him, he would assume that no action was to be taken. This is in essence, the same request made on 21 April 2005. As the public authority did not respond, the complainant would have understood this to mean that no action would be taken following his submission of evidence.

The Commissioner is therefore satisfied that the complainant had already received an answer to his restated request of 21 April 2005.

Procedural breaches

16. **Section 10(1)** provides that –

“...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt”.

In this case the public authority failed to respond to the complainant's request for information within twenty working days. The request was made by letter of 21 April 2005 and the public authority did not provide a response until 8 June 2005.

17. **Section 17 – Refusal Notice**

Section 17(5) and 17(7) stipulate the contents of a Refusal Notice when section 14 is relied upon. The Notice must contain particulars of any procedure provided for dealing with complaints and contain particulars of the right conferred by section 50, to complain to the Information Commissioner. These details were omitted from the Notice provided to the complainant on 8 June 2005. The

Commissioner therefore considers that the public authority breached section 17 of the Act.

Other issues

18. It is noted that this request for information formed part of a series of correspondence sent by the complainant to the public authority over a period of around two years relating to a similar theme. The Commissioner's powers provided by the Act are limited to facilitating access to information to which the public has a right. He is therefore unable to become involved in disputes that may surround a request for information but which he has no legal basis to become involved in.
19. It was observed by the Commissioner during this investigation that a part of the complainant's request of 21 April 2005 may not constitute a request for recorded information. However, this was not considered further as the application of section 14 is to be upheld and the Commissioner is satisfied that the public authority does not hold information relating to the request in any event.

The Decision

20. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act although there were some procedural breaches in the process.

Steps Required

21. The Commissioner requires no steps to be taken.

Right of Appeal

22. Either party has the right to appeal against this Decision Notice to the Information 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

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

Dated the 20th day of September 2006

Signed

**Graham Smith
Deputy Commissioner**

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