

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 27 February 2012

**Public Authority:** The Chief Constable  
**Address:** South Yorkshire Police  
Snig Hill  
Sheffield  
S3 8LY

#### Decision (including any steps ordered)

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1. The complainant has requested a wide range of information about various historical incidents involving his wife and subsequent related investigations involving a named police officer and others.
2. The Commissioner's decision is that South Yorkshire Police correctly dealt with the request as vexatious relying on section 14(1) of FOIA.
3. The Commissioner does not require the public authority to take any steps to ensure compliance with the legislation.

#### Request and response

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4. On 10 March 2011, the complainant wrote to South Yorkshire Police and requested information in the following terms:

*"Could I please have info as to the career progression of [named individual] prior to his current position.*

1. *What was the time period in which [named individual] served at [named police station] circa mid 1970's.*
2. *What (if any) part did he play in the investigation of the jailed police officer [named individual].*

3. *In the report there is clearly an outstanding crime of theft of and relocation of a policewomans [sic] purse for which the culprit (obviously a police officer) has never been found – Are there any suspects as to who relocated that purse?*
4. *Given the similarity of mysterious relocations in reference to PACE document aired on Sept 7<sup>th</sup> 98 in Sheffield Tribunal and the policewomans [sic] purse and the common name of [named individual] is it possible to link these issues.*
5. *Is there a known relationship between [named individual] and [named individual] or any other [named individual] in a working capacity?*
6. *An investigation to professional standards had been conducted into the perjury allegations as a result of the declared embarrassment and withdrawal of services of counsel [named individual] and his reference (with others) to a miscarriage of justice on Sept 7<sup>th</sup> 98.....What is the conclusion of the police professional standards investigation?*

*If the answer to 5 is unknown or yes then could [named individual] relieve himself of the inquiry into [named individual] and the allegation of perjury, evidence relocation and relying on false instrument on Sept 7<sup>th</sup> 98 due to a possible conflict of interests.*

*Location of outstanding evidence c/o embarrassed counsel [named individual and address]."*

5. South Yorkshire Police responded on 28 March 2011. It stated that it was refusing the request as it deemed it to be vexatious in accordance with section 14(1) of the FOIA.
6. Following an internal review South Yorkshire Police wrote to the complainant on 6 April 2011 and informed him that it upheld its original decision that the request was deemed to be vexatious.

### **Scope of the case**

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7. Following further correspondence with the complainant the Information Commissioner accepted a complaint and commenced his investigation.
8. The Information Commissioner requested additional information from South Yorkshire Police on its handling of the request and asked it to

provide him with information in support of its conclusion that the request was vexatious in accordance with section 14(1) of the FOIA.

9. The Information Commissioner has not referred to specific names and events in this decision notice as they are voluminous and complex in nature and involve third party data. However, he is satisfied that he has received sufficient relevant information on the background and context of the request and correspondence.
10. The scope of the Information Commissioner's investigation focussed solely on whether the request was vexatious.

### **Reasons for decision**

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11. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request if the request is vexatious. The term vexatious is not defined in the Act but the Information Commissioner's published guidance explains that 'vexatious' is meant to have its ordinary meaning and there is no link to the legal definitions in other contexts such as 'vexatious litigants'. The Information Commissioner has identified five criteria against which a request can be assessed to determine whether it is vexatious.

### **Would complying with the request impose a significant burden in terms of expense and distraction?**

12. South Yorkshire Police told the Information Commissioner that it had received a massive volume of correspondence from the complainant including freedom of information requests on or relating to the same subject. It argued that the complainant 'copies' his correspondence to various members of South Yorkshire Police staff and explained that this had resulted in a large amount of time being spent by its police and administration staff at all levels of seniority to record and respond to the correspondence as well as considerable distraction from their normal work. It also told the Information Commissioner that it was copied in on the complainant's correspondence to other agencies on the same subject matter and this also had the effect of staff being distracted from their normal duties to read and assess whether such correspondence required action or had in fact already been dealt with.
13. It argued that it also had to adapt its way of working just to attempt to deal with this complainant's correspondence in a controlled way and that this wasted a significant amount of police time and created an additional burden on its staff in terms of distraction.

14. South Yorkshire Police provided the Information Commissioner with a list of correspondence it had received either directly or by being 'copied in' by the complainant. The Information Commissioner notes that the correspondence listed dates from 1993 and that the list contains approximately 1,200 separate references to correspondence received from the complainant and also sent to the complainant. It also provided an outline of how it had adapted its procedures to deal with the complainant's correspondence. It told the Information Commissioner that since the beginning of 2011 alone there had been 190 separate pieces of correspondence each being copied into at least one other recipient. South Yorkshire Police also told the Information Commissioner that on one occasion the complainant had stopped a police officer in the street and handed him a 13-page report relating to the subject matter of the request which resulted in the officer having to read the report to determine how to deal with it.
15. The Information Commissioner, having inspected the supporting evidence attributes significant weight to South Yorkshire Police's argument that complying with the request has the effect of causing a significant burden in terms of distraction of its staff.

**Can the request fairly be seen as obsessive?**

16. In considering whether the request is obsessive the Information Commissioner applies a test of reasonableness. For example, would a reasonable person be able to describe the request as obsessive? In answering this question the Information Commissioner considers that the wider context and background of the request is important. The Information Commissioner might not accept that a request is vexatious in isolation but when studied in the context of a series of overlapping requests or correspondence it may form part of a pattern of behaviour that could be defined as vexatious.
17. South Yorkshire Police told the Information Commissioner that the vast amount of correspondence and requests received from the complainant is overwhelming and that it is all related to the same subject and the same named individuals. It told the Information Commissioner that the complainant has exhausted all legal channels with the appropriate agencies to have his complaint about the original incident investigated and following those investigations no other legal avenues are open to him. It is its view that despite knowing that no other legal or formal avenues are open to him that he continues to obsessively submit requests and correspondence or copy South Yorkshire Police into his correspondence on a regular basis and on the same subject.

18. It also told him that the correspondence is copied into various other agencies as well as South Yorkshire Police being copied into the complainant's correspondence to those other agencies. It told the Information Commissioner that it was clear that even when the complainant receives a response from it or another agency he seems to be driven to make further similar requests or generate additional correspondence.
19. The subject matter of the request and the wording of the correspondence clearly demonstrate that the complainant is unwilling to accept the answers he receives from his requests and correspondence. The Information Commissioner, having inspected the supporting evidence and the content of the correspondence, accepts that the request can be fairly seen as obsessive and that this has significant weight.

**Is the request harassing the authority or causing distress to staff?**

20. The point to consider here is the effect that the request had on the authority or its staff. It may be the case that a request was not designed to harass or cause distress but that this may actually be the effect the request had. The complainant may believe his request to be reasonable but not take into account that the effect may be to harass or cause distress.
21. South Yorkshire Police provided the Information Commissioner with its arguments that the request was causing harassment to its staff as well as the police force itself. It said that this was because of the high volume, frequency and overlapping of requests and correspondence, the tone of the correspondence, and the fixation on the subject matter which centred around named members of police staff.
22. South Yorkshire police also provided copies of correspondence which contain references to an alleged inappropriate relationship between two members of police staff. The Information Commissioner notes that, as the complainant 'copies' other persons and agencies both within and outside South Yorkshire Police into his correspondence, that the complainant would be fully aware that other unrelated parties will read his correspondence. He is therefore satisfied that this provides additional evidence of the harassing nature of the request in the context of the subject matter of the request. He has attributed some weight to this factor.

### **Is the request designed to cause disruption or annoyance?**

23. Whilst the Information Commissioner accepts that a singular request may have the effect of causing disruption or annoyance the issue to consider is whether the request was *designed* to have that effect.
24. South Yorkshire Police told the Information Commissioner that the request and related correspondence on the same subject matter from the complainant are routinely copied into other agencies such as the Home Office, Members of Parliament and others. It also told him that the content of the request and related correspondence are not always clearly written and that as a result attempting to make sense of the request and/or correspondence is difficult and that they believed the wording of the correspondence is purposefully designed to invite further engagement with the complainant.
25. South Yorkshire Police also told the Information Commissioner that the complainant routinely corresponded with different police officers and police staff and often sends the same piece of correspondence in different formats such as email, fax and post and that each piece of correspondence arrives at a different time and often different location. This results in several members of staff being disrupted in dealing with the correspondence which needs to be read thoroughly and cross-checked to ensure nothing is missed or duplications do not occur when responding. It argued that this demonstrates that the request is designed to cause disruption and annoyance to South Yorkshire Police.
26. Having studied the content of the file and the supporting evidence provided by South Yorkshire Police and the background, context and subject matter of the request, the Information Commissioner is not satisfied that the request is **designed** to cause disruption and annoyance to South Yorkshire Police and its staff, albeit that it may have that collateral effect.

### **Does the request lack any serious purpose or value?**

27. South Yorkshire Police told the Information Commissioner that when the complainant initially began corresponding with it on the subject matter, it could be determined that he had a serious purpose in making his original request. However, it told the information Commissioner that despite receiving outcomes to his previous requests and related police and other investigations on the same subject, from not only South Yorkshire Police but other agencies, the complainant has continued to make the same and/or similar requests on the same subject. It argued that the request and other correspondence arises from the complainant

being dissatisfied with the outcome of a situation involving his wife that occurred many years before, and that he is fixated on a belief that some kind of conspiracy involving named police officers has occurred. It argued that this demonstrates that this request lacks serious purpose or value. However, the Information Commissioner is not convinced that the public authority has provided sufficiently specific evidence that this series of requests does not continue to have a serious purpose or value.

28. The Information Commissioner has carefully considered the wording of this request in the context of previous requests and correspondence as well as the supporting information provided by South Yorkshire Police. While he accepts that initially the complainant may have had a serious purpose to his interaction with South Yorkshire Police but that the situation has changed into a fixation on some kind of conspiracy having occurred involving police officers. He therefore attributes significant weight to the argument that this request can be determined as lacking any serious purpose or value.

## **Conclusion**

29. Having assessed the handling of the request in line with his published guidance and the five criteria and considering the content of the information he has inspected the Information Commissioner is satisfied that the request is vexatious in accordance with section 14(1) of FOIA. Accordingly South Yorkshire Police was not obliged to comply with the request.

## Right of appeal

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30. 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: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

31. 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.
32. 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**