

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 June 2016

Public Authority: Chief Constable of South Wales Police
Address: Police Headquarters
Cowbridge Road
Bridgend
CF31 3SU

Decision (including any steps ordered)

1. The complainant requested information about guidelines in relation to a number of mobile speed camera sites and the name and contact details of the person who authorised the use of two specific sites. South Wales Police stated it did not hold some of the information requested, one request did not constitute a valid request and applied section 14(1) to two requests which it considered vexatious. During the course of the Commissioner's investigation, South Wales Police withdrew reliance on section 14(1) in relation to one request and applied section 40(2) in the alternative. The Commissioner's decision is that South Wales Police does not hold some of the information requested and that one of the requests was not valid as per section 8 of the FOIA. The Commissioner has also determined that South Wales Police has correctly applied section 40(2) to one request and section 14(1) to another request.

Request and response

2. On 19 June 2015 the complainant wrote to South Wales Police and requested information in the following terms:

"You have started operating a mobile speed camera at Glyntaff Road adjacent to the A470 in Pontypridd..... I would like to know what guidelines are being followed in relation to this particular mobile speed camera van as i know that any van parked up should not make the road user have to cross over the central white lines on any road so why is it

deemed acceptable at this site. I have witnessed a number of potetnial [sic] accidents because of this camera whereby the road is constricted and oncoming cars have narrowly avoided a head on collision because of the constriction to the road because of this van".

3. South Wales Police responded on 21 July 2015 and stated that it did not hold the information requested as it did not operate a mobile safety camera site at Glyntaff Road, Pontypridd. South Wales explained that there were two nearby mobile safety camera enforcement sites (on the A4054 Pentrebach Road, Pontypridd and another at Gwalia Grove). It provided information about the two nearby sites and confirmed that each location had been subject to a satisfactory risk assessment.

4. On 21 July 2015 the complainant made a follow up request in the following terms:

"In your response you state that the camera does not infringe on any rules that are set out, yet having read them with keen interest, it clearly states that a camera van should not make a motorist have to cross the central white lines to pass it. The van in question here clearly does so that so [sic] I would please like further clarification on why the positioning of this particular camera is deemed appropriate".

5. On 22 July 2015 South Wales Police wrote to the complainant to seek clarification in order to enable it to locate the information requested. It confirmed that it did not operate a mobile safety camera site in Glyntaff Road and asked the complainant to confirm whether his request related to the site at Gwalia Grove near Glyntaff Road.

6. The complainant responded on 22 July 2015 and confirmed that:

"I am asking why to both as both are in contravention of the rules set ot by central government.....Both mobile camera vans here force the driver to cross over the central white lines which is in contravention of mobile speed camera rules".

7. South Wales Police responded on 4 August 2015 and stated that the request of 21 July 2015 did not constitute a valid request as it sought opinion rather than recorded information.

8. On 4 August 2015 the complainant submitted a further request for:

"I will ask again, can I please have all recorded information from South Wales police regarding the operation of these specific cameras and who in particular has authorised the use of the specific cameras. Even if you state that there is no recorded information regarding the cameras, there is obviously somebody in the force that has said their use is ok".

9. On 25 August 2015 South Wales Police asked the complainant to provide clarification of his request as "all recorded information" covered a wide range of data. It also confirmed that it was able to supply the name of the officer who had authorised the use of the specific cameras.
10. The complainant responded to South Wales Police on 25 August 2015 and stated that "Yes that will suffice for now, if you could please supply me with the name and contact details of who authorised the use of these two specific sites. Also why these camera sites are deemed appropriate when they are in contravention of government legislation".
11. South Wales Police responded on 28 August 2015 and provided the name of the officer who had signed the risk assessments for the two mobile speed cameras sites at Gwalia Grove and Pentrebach Road. It advised that it was unable to provide his contact details as he was no longer employed. South Wales Police also confirmed that the two sites were "core sites" and explained how core sites were selected. South Wales Police re-confirmed that both sites had been subject to a satisfactory risk assessment which confirmed that no road traffic regulations were infringed.
12. On 28 August 2015 the complainant contacted South Wales Police again and reiterated his view that the mobile speed camera vans at the two sites forced drivers to cross the central white lines. He again requested information in the following terms:

"I would like further clarification as to why this is classed as acceptable when it is causing a hazard to motorists who use that road".
13. On 1 September 2015 the complainant requested an internal review of South Wales Police's handling of his request.
14. On 2 September 2015 South Wales Police asked the complainant to confirm which request he was referring to in his internal review request.
15. The complainant responded on 2 September 2015 and confirmed that his internal review request related to "The very request your [sic] questioning".
16. On 2 September 2015 South Wales Police pointed out that the link provided by the complainant related to a number of separate FOI requests and asked the complainant to confirm which request his internal review request related to. The complainant responded the same day and confirmed he was seeking an internal review in relation to the handling of all of his requests.
17. South Wales Police provided the outcome of its internal review into the request dated 19 June 2015 on 4 September 2015. It also provided the

outcome of its internal review into the requests dated 21 July 2015 and 4 August 2015 on 25 September 2015.

18. On 4 September 2015 the complainant wrote back to South Wales Police and stated that:

"You still haven't answered my question. It is not up to you as a force to decide what is acceptable or not. You have to obey government legislation on the use of such cameras and such legislation states that any camera camera [sic] van must not force the driver of any vehicle to cross the central white lines to pass it. Both these camera vans do exactly that and so I would like to know where is the recorded information that allows you as a force to breach such legislation?"

19. South Wales Police responded on 5 October 2015 and stating that it considered section 14(1) to apply to the request of 4 September 2015 and that it would not answer or acknowledge any further requests relating to the matter.

Scope of the case

20. The complainant contacted the Commissioner on 4 September 2015 expressing dissatisfaction with South Wales Police's response to his requests.

21. During the course of the Commissioner's investigation, South Wales Police confirmed that its position relating to the requests was, as set out below:

Request 1 - 19 June 2015 – information not held

Request 2 - 21 July 2015 – not a valid request under the FOIA

Request 3 – 4 August 2015 – section 40(2) to the contact details of the officer who signed the risk assessment

Request 4 – 4 September 2015 – request is vexatious under section 14(1)

22. In light of the above, the Commissioner has considered whether South Wales Police has handled the requests above in accordance with its obligations under the FOIA.

Reasons for decision

Request 1 – 19 June 2015

Section 1 – general right of access

23. The request of 19 June 2015 was for:

“You have started operating a mobile speed camera at Glyntaff Road adjacent to the A470 in Pontypridd..... I would like to know what guidelines [sic] are being followed in relation to this particular mobile speed camera van”

24. Section 1 of the FOIA states that any person making a request for information is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request and, if that is the case, to have that information communicated to him.

25. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the authority to check that the information is not held and he will consider any other reasons offered by the public authority to explain why the information is not held. He will also consider any reason why it is inherently likely or unlikely that information is not held. For clarity, the Commissioner is not expected to prove categorically whether the information was held; he is only required to make a judgement on whether the information was held on the civil standard of the balance of probabilities.

26. South Wales Police's position is that it does not hold any recorded information relevant to the request as it does not operate a mobile safety camera site in Glyntaff Road, Pontypridd. However, in an attempt to advise and assist the complainant, South Wales Police confirmed that it operated two mobile safety camera enforcement sites at nearby locations. It provided some information about the two nearby sites and confirmed that both locations had “been subject to a satisfactory risk assessment carried out by South Wales Police, and no road traffic regulations are infringed”.

27. South Wales Police advised the Commissioner that, on receipt of this request, it was transferred to its Casualty Reduction Unit. This unit uses an excel spreadsheet, which is held on a shared drive, comprising a list of all its adopted sites which have in the past or are currently subject to speed enforcement. A search was carried out of information contained within this spreadsheet using the search terms “Glyntaff Road” and “Glyn Taff Road” and no results were returned.

28. South Wales Police confirmed that all of its speed camera enforcement sites are recorded within this spreadsheet and no other unit, spreadsheet or database would hold any other information relating to enforcement sites. South Wales Police also confirmed that the spreadsheet does not indicate that any information has ever been held relating to a speed camera enforcement site at Glyntaff Road, and subsequently deleted. If a speed camera site had ever been operated at the location in question it would show as either a live or an archived site.
29. South Wales Police have also discussed the matter with staff within its Casualty Reduction Unit who confirmed that, to the best of their knowledge, there has never been an enforcement site at the location in question. South Wales Police confirmed that a mobile speed camera van should never have been parked on Glyntaff Road as it is not a designated enforcement site. It also provided the Commissioner with a map of the area showing that Glyntaff Road is a dead end street and, therefore, there would be no need to collate speed data at the location in question.
30. Having considered South Wales Polices' explanations and the details of the searches it conducted for the requested information, the Commissioner is satisfied that, on the balance of probabilities, South Wales Police does not hold the information requested on 19 June 2015.

Request 2 – 21 July 2015

Section 8 – valid request

31. This request of 21 July 2015 was for "... further clarification as to why the positioning of this particular camera is deemed appropriate", which the complainant later confirmed related to the mobile speed camera enforcement sites at Pentrebach Road and Gwalia Grove.
32. South Wales Police does not consider this request to be a valid request for information under the FOIA as it does not clearly describe the information which is being requested.
33. Section 8(1) defines a valid "request for information" under the FOIA as a request which:
 - (a) is in writing,
 - (b) states the name of the applicant and an address for correspondence, and
 - (c) describes the information requested.

34. The request in question is clearly in writing and has an address for correspondence. The only issue remaining for the Commissioner to consider is its validity in respect of whether it describes the information requested.
35. In the Commissioner's view a request will meet the requirements of section 8(1)(c) as long as it contains a sufficient description of the information required. Details as to date, author, purpose or type of document, physical location, subject matter or area concerned with, may all help to identify the nature of the information sought. Each request has to be judged on its individual merits as to whether there were sufficient indicators provided to enable the information requested to be adequately described for the purposes of section 8. As long as a request attempts to describe the information it is likely to meet the requirements of section 8(1)(c) as it is always open to the public authority to seek further clarification to identify the information.
36. Following the request dated 21 July 2015, South Wales Police explained that it contacted the complainant to seek clarification of the information being sought. It asked him to confirm whether his question "why the positioning of this particular camera is deemed appropriate" related to the both of the nearby camera enforcement sites referred to in its response to the initial request dated 19 June 2015. The complainant responded confirming that his request relating to both sites. He added:

"I am asking why to both as both are in contravention of the rules set out by central government that every speed camera partnership has to adhere to, namely that a driver must not be forced to cross over the central white lines to pass the camera van. Both mobile camera vans here force the driver to cross over the central white lines which is in contravention of mobile speed camera rules".
37. In its response dated 21 July 2015, South Wales Police confirmed that both of the camera enforcement sites near to Glyntaff Road (ie Pentrebach Road and Gwalia Grove) had been subject to a satisfactory risk assessment and no road traffic regulations are infringed. Despite being aware of their existence, the complainant did not request a copy of the risk assessments. Instead he asked "why is the positioning of these cameras deemed appropriate as both are in contravention of the rules". South Wales Police pointed out that, if the complainant was interested in recorded information about the subject matter, he would have asked for a copy of the risk assessments referred to. South Wales Police's position is, therefore, that the request is asking it to answer a question rather than asking for recorded information.
38. The Commissioner considers that the wording of section 8(1)(c) is clear and should bear its plain meaning. This provision simply requires the

request to "*describe the information requested*". The Commissioner does not consider that the request of 21 July 2015 adequately sets out a description of the recorded information being requested; rather it appears to seek to use the FOIA as a means of advancing the complainant's discontent with the positioning of mobile speed camera enforcement sites in the area and his assumption that South Wales Police is carrying out what he perceives to be an illegal practice. The request seeks the justification for and explanation of his allegation.

39. It is the Commissioner's view that the request of 21 July 2015 is not a request for information as per section 8 of the FOIA, rather it consists of a question seeking an opinion. As it is not a request for recorded information the Commissioner cannot consider it further.

Request 3 – 4 August 2015

40. The request of 4 August 2015 was for:

"I will ask again, can I please have all recorded information from South Wales police regarding the operation of these specific cameras and who in particular has authorised the use of these specific cameras. Even if you still state that there is no recorded information regarding these cameras, there is obviously somebody within the force that has said their use is ok".

41. On 25 August 2015 South Wales Police contacted the complainant to seek clarification of the request. It pointed out that "all recorded information covered a wide range of data and explained that it was able to provide the name of the individual who authorised the use of the specific cameras.

42. The complainant responded on the same day stating:

"...that will suffice for now, if you could please could please supply me with the name and contact details of who authorised the use of these two specific sites. Also, why these camera sites are deemed appropriate when they are in contravention of government legislation".

43. South Wales Police provided the name of the officer who signed the two risk assessments and confirmed that as the officer was no longer employed by them it was unable to provide any contact details. It also confirmed that both camera sites referred to had been subject to a satisfactory risk assessment and no road traffic regulations are infringed at the sites. South Wales Police's response to the request also included a warning that any future requests on the subject matter may be considered to be vexatious in accordance with section 14(1) of the FOIA.

44. In its internal review response relating to this request dated 25 September 2015 South Wales Police confirmed it considered the request to be vexatious and section 14(1) applied. However, during the course of the Commissioner's investigation, South Wales Police confirmed that it applied section 14(1) in error and rather it should have applied section 40(2) to the contact details of the officer who signed the risk assessments.
45. The Commissioner has already considered in paragraphs 31 to 39 of this notice that a request for "why these camera sites are deemed appropriate when they are in contravention of government legislation" is not a valid request for information. In relation to the request of 4 August 2015 (clarified on 25 August 2015), the Commissioner has therefore only considered whether section 40(2) has been applied correctly to the contact details of the officer who signed the risk assessments for the camera enforcement sites at Pentrebach Road and Gwalia Grove.

Section 40 – the exemption for personal data

46. Section 40(2) of the FOIA states that information is exempt from disclosure if it constitutes the personal data of a third party and its disclosure under the FOIA would breach any of the data protection principles or section 10 of the Data Protection Act 1998 ('the DPA').

Is the requested information personal data?

47. In order to rely on the exemption provided by section 40, the information being requested must constitute personal data as defined by section 1 of the DPA. It defines personal information as data which relates to a living individual who can be identified:
- from that data,
 - or from that data and other information which is in the possession of, or is likely to come into the possession of, the data controller.
48. In considering whether the information requested is "personal data", the Commissioner has taken into account his own guidance on the issue¹. The two main elements of personal data are that the information must "relate to" a living person, and that person must be identifiable. Information will "relate to" a person if it is about them, linked to them,

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http://ico.org.uk/for_organisations/guidance_index/~/_media/documents/library/Data_Protection/Detailed_specialist_guides/PERSONAL_DATA_FLOWCHART_V1_WITH_PREFACE001.ashx

has some biographical significance for them, is used to inform decisions affecting them, has them as its main focus or impacts them in any way.

49. The withheld information in this case comprise the home address and telephone number of an officer who signed risk assessments associated with two speed camera enforcement sites. The withheld information clearly comprises data which relates to the individual concerned as it represents biographical information about him. The Commissioner therefore accepts that the information in the context of this request is personal data as defined by the DPA.

Would disclosure breach one of the data protection principles?

50. Having accepted that the information requested constitutes the personal data of a living individual other than the applicant, the Commissioner must next consider whether disclosure would breach one of the data protection principles. He considers the first data protection principle to be most relevant in this case. The first data protection principle has two components:

- personal data shall be processed fairly and lawfully; and
- personal data shall not be processed unless at least one of the conditions in DPA schedule 2 is met.

Would disclosure be fair?

51. In considering whether disclosure of the information requested would comply with the first data protection principle, the Commissioner has first considered whether disclosure would be fair. In assessing fairness, the Commissioner has considered the reasonable expectations of the individual concerned, the nature of those expectations and the consequences of disclosure to the individual. He has then balanced against these the general principles of accountability and transparency as well as any legitimate interests which arise from the specific circumstances of the case.
52. The Commissioner notes that the requested information in this case relates to the individual's personal life as it comprises his home address and telephone number. This is because the individual concerned no longer works for South Wales Police and therefore there are no corporate contact details relating to the individual. It is clear to the Commissioner that the individual concerned would have had no expectation that his home address and telephone number would be disclosed to the world at large in response to a FOIA request.

53. The Commissioner is also satisfied that disclosure of the information requested into the public domain would give rise to an unfair and unwarranted intrusion into the individual's privacy in the circumstances of this case.
54. The Commissioner accepts that there is a legitimate public interest in disclosure of information which would promote accountability and transparency. However, in this case, the Commissioner notes that South Wales Police has disclosed the name of the individual who signed the risk assessments in question. Disclosure of the home address and telephone number of the individual would add nothing to public understanding of the issues involved. Consequently the Commissioner finds that disclosure would be unfair and breach the first data protection principle. He therefore considers section 40(2) of the FOIA was correctly applied to the contact details of the individual in this case.

Request 4 – 4 September 2015
Section 14(1) – vexatious requests

55. South Wales Police has applied section 14(1) to the request of 4 September 2015 which was for:

“You still haven't answered my question. It is not up to you as a force to decide what is acceptable or not. You have to obey government legislation on the use of such cameras and such legislation states that any camera camera [sic] van must not force the driver of any vehicle to cross the central white lines to pass it. Both these camera vans do exactly that and so I would like to know where is the recorded information that allows you as a force to breach such legislation?”
56. Section 14(1) of the FOIA allows a public authority to refuse to comply with a request that is vexatious.
57. The term “vexatious” is not defined in the FOIA. The Upper-tier Tribunal considered the issue of vexatious requests in the case of *The Information Commissioner and Devon County Council vs Mr Alan Dransfield (GIA/3037/2011)* and concluded that the term could be defined as the “*manifestly unjustified, inappropriate or improper use of a formal procedure*”.
58. The Dransfield case identified four factors that may be present in vexatious requests:
 - a. the burden imposed by the request (on the public authority and its staff)

- b. the motive of the requester
 - c. harassment or distress caused to staff
 - d. the value or serious purpose of the request.
59. Notwithstanding these indicators, all the circumstances of the case such as the background and history of the request must be considered in reaching a judgement as to whether a request is vexatious.
60. The Commissioner's guidance on vexatious requests² suggests that the key question a public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. Where this is not clear, the Commissioner considers that public authorities should weigh the impact on the authority and balance this against the purpose and value of the request. In addition, where relevant, public authorities also need to take into account wider factors such as the background and history of the request.
61. The Commissioner has previously issued two decision notices finding requests from the complainant relating to the subject matter were vexatious. A copy of these notices can be found on the Commissioner's website³. The Commissioner also notes that South Wales Police has advised the complainant on a number of occasions in its responses to this request and other related requests that it would not "answer or acknowledge further requests relating to this matter".
62. South Wales Police contends that the request of 4 September 2015 can be linked to other requests received from the complainant relating to issues surrounding speed cameras in the area, including those which were the subject of previous decision notices issued by the Commissioner. South Wales Police considers that the representations it submitted in relation to its application of section 14 to the requests of 20 February 2014 and 5 March 2015 remain of relevance in this case, as the subject matter of the requests is the same ie they relate to mobile

² <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

³ https://ico.org.uk/media/action-weve-taken/decision-notices/2014/1042824/fs_50539357.pdf

<https://ico.org.uk/media/action-weve-taken/decision-notices/2016/1623642/fs50582877.pdf>

speed camera sites. However, South Wales Police provided some additional representations in relation to its application of section 14(1) to the request of 4 September 2015, which are summarised below.

63. South Wales Police provided a summary of previous requests and communications with the complainant relating to the subject matter, to demonstrate evidence of unreasonable persistence on his part and the disproportionate and unjustified level of disruption and irritation the requests are causing.
64. With specific reference to the request which is the subject of this notice South Wales Police pointed out that despite being advised that the sites in question had been subject to a satisfactory risk assessment and no road traffic regulations were infringed, the complainant was persistently asking the same or similar questions. South Wales Police advised that the complainant has repeatedly accused it of breaching legislation relating to safety cameras, but has provided no evidence to substantiate the claims.
65. South Police contends that the complainant submits frequent requests, which sometimes overlap, on the subject of safety cameras and the requests and communications demonstrate that he takes an unreasonable entrenched position and rejects any attempt to assist and advise. South Wales Police considers that all of the requests and contacts from the complainant can be linked back to an original incident some years ago, the details of which have been reproduced in previous decision notices. It therefore maintains that the issue at hand is one that individually affects the requestor, and not the wider public.
66. In determining whether section 14 was applied correctly in this case, the Commissioner considered the representations outline above and evidence previously provided by South Wales Police. The Commissioner is of the view that the request of 4 September 2015 clearly relates to complaints and concerns in respect of mobile speed camera sites in the Pontypridd area, resulting from a NIP that was issued to the complainant in 2003. As such, the Commissioner's analysis relied on in the previous decision notices continues to be relevant in this case. For brevity, the Commissioner will not reproduce the content of his previous decision notices⁴ here but he has concluded, on the same basis, that South

⁴ https://ico.org.uk/media/action-weve-taken/decision-notices/2014/1042824/fs_50539357.pdf

<https://ico.org.uk/media/action-weve-taken/decision-notices/2016/1623642/fs50582877.pdf>

Wales Police again correctly relied on section 14(1) when considering this request.

Right of appeal

67. 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

68. 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.
69. 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

Anne Jones
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
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