

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 25 July 2016

**Public Authority:** Chief Constable of Staffordshire Police  
**Address:** Police Headquarters  
PO Box 3167  
Stafford  
ST16 9JZ

#### Decision (including any steps ordered)

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1. The complainant requested information relating to the outsourcing of pensions administration by Staffordshire Police. In relation to some parts of the request Staffordshire Police disclosed information and provided explanations, but the complainant disputed whether Staffordshire Police had disclosed all information it held falling within the scope of those requests. Staffordshire Police refused one part of the request as vexatious under section 14(1) of the FOIA.
2. In relation to those parts of the request where the complainant disputes whether Staffordshire Police identified all relevant information it holds, the Commissioner finds that it did identify all the relevant information and so complied with section 1(1)(a). In relation to the request where section 14(1) was cited, the Commissioner finds that this request was vexatious and so Staffordshire Police was not obliged to comply with it. Staffordshire Police is not required to take any steps.

#### Request and response

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3. On 5 June 2015, the complainant wrote to Staffordshire Police and requested information in the following terms:

*"Copies of protocols and procedures for Injury Awards, Dispute Resolution Procedures and Final Resort Dispute Procedure.*

*Names of companies bidding for the Staffordshire Police pension administration tender.*

*Evidence of how Staffordshire Police have met its obligations under due diligence.*

*Copies of all emails, correspondence, communications relating to the pension administration changes, tender preparation and bid."*

4. Staffordshire Police failed to respond to this request promptly and the Commissioner issued a decision notice on 12 November 2015 finding Staffordshire Police in breach of sections 1 and 10 of the FOIA<sup>1</sup>. This notice required Staffordshire Police to respond to the request.
5. Staffordshire Police responded to the request on 17 December 2015. In response to the first and second parts of the request Staffordshire Police disclosed information to the complainant. It provided an explanation in response to the third part of the request and refused the fourth part of the request as vexatious under section 14(1) of the FOIA.
6. The complainant responded on 11 January 2016 and requested an internal review. Staffordshire Police failed to carry out an internal review.

## **Scope of the case**

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7. Having not received an internal review response from Staffordshire Police, the complainant contacted the Commissioner on 7 March 2016 to complain about the response to his information request. The grounds for complaint were later established as being that the complainant did not accept that Staffordshire Police had disclosed to him all information that it held that fell within the scope of the first, second and third parts of his request and that he did not agree with the citing of section 14(1) in response to the fourth part of his request.
8. Having issued the earlier decision notice, the procedural breach through the initial failure to respond to the request is not recorded again here, although the Commissioner does comment on the handling of the complainant's request in the Other matters section below.

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<sup>1</sup> [https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1560209/fs\\_50592851.pdf](https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1560209/fs_50592851.pdf)

## Reasons for decision

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### Section 1

9. As noted above, the grounds for complaint in relation to the first three parts of the request were that the complainant did not accept that all information held by Staffordshire Police falling within the scope of those requests had been supplied to him. Section 1(1)(a) of the FOIA provides that a public authority is obliged to confirm or deny whether it holds requested information. That requires a public authority to establish accurately what information it holds that falls within the scope of the request. If the finding here is that Staffordshire Police failed to identify correctly what relevant information it held, this would mean that it was in breach of section 1(1)(a) of the FOIA.

10. When considering whether a public authority has identified all relevant information that it holds, the Commissioner applies the civil standard of the balance of probabilities. The question here is, therefore, whether on the balance of probabilities Staffordshire Police identified all the information it held that fell within the scope of the complainant's requests. He has considered each of the requests in turn.

*"Copies of protocols and procedures for Injury Awards, Dispute Resolution Procedures and Final Resort Dispute Procedure."*

11. In response to this request, Staffordshire Police disclosed two documents to the complainant; *"Injury Awards Procedure"* and a copy of the Police (Injury Benefit) Regulations 2006. The complainant maintained that further information would be held by Staffordshire Police falling within the scope of this request.

12. In correspondence with the ICO, Staffordshire Police explained the steps that had been undertaken to identify the relevant information it held. It explained that the information that had been disclosed had been retrieved by the *"HR Support Team Leader"*, who had mainly relied on their existing knowledge of where the relevant information would be held.

13. As to the Commissioner's view on whether Staffordshire Police did enough for him to conclude that, on the balance of probabilities, it identified all the relevant information it held, this is not a case where a public authority is denying that it holds information and this is disputed by the complainant. Instead, in this case Staffordshire Police confirmed it held the requested information and supplied this to the complainant. There is no evidence available to the Commissioner that suggests that Staffordshire Police holds any further relevant information and so his conclusion is that, on the balance of probabilities, it identified all the

information it held within the scope of this request and so handled it in accordance with section 1(1)(a).

*"Names of companies bidding for the Staffordshire Police pension administration tender."*

14. In response to this request Staffordshire Police stated that one company had submitted a tender bid and it disclosed the name of that company. The case made by the complainant in relation to this request was that he believed that three companies had submitted tender bids, so Staffordshire Police should have disclosed to him the names of two other companies.
15. The Commissioner asked Staffordshire Police to confirm whether it maintained that the disclosed name of one company was all the information it held that fell within the scope of this request. It responded that it did maintain that only that company submitted a tender bid, so this was the only relevant information that it held. It also stated that it had approach three organisations initially to invite them to submit a tender, but only one did so. This may explain from where the complainant's belief that three companies had submitted tenders arose.
16. Despite the assertions of the complainant, there is no evidence that has been brought to the Commissioner's attention that casts doubt on the position of Staffordshire Police about the number of tender bids that it received. The Commissioner therefore finds that Staffordshire Police handled this request in accordance with section 1(1)(a) of the FOIA.

*"Evidence of how Staffordshire Police have met its obligations under due diligence."*

17. In its response to the complainant Staffordshire Police explained that it relied on due diligence that had been carried out previously by Hampshire Constabulary. It maintained this in correspondence with the ICO and stated that it had not carried out searches of its systems for information falling within the scope of this request because this reasoning as to why it did not hold this information rendered such searches unnecessary.
18. Again, there is no evidence available to the Commissioner that disputes the explanation given by Staffordshire Police. The Commissioner accepts the explanation from Staffordshire Police that it was not necessary for it to carry out due diligence as this had already been carried out by Hampshire Constabulary. Having accepted that, the Commissioner also accepts that Staffordshire Police did not hold any information falling within the scope of this request and complied with section 1(1)(a) of the FOIA when stating this.

## Section 14

19. Section 14(1) of the FOIA was cited in relation to the fourth part of the complainant's request:

*"Copies of all emails, correspondence, communications relating to the pension administration changes, tender preparation and bid."*

20. Section 14(1) provides that a public authority is not obliged to comply with a request that is vexatious. Staffordshire Police cited this section in relation to the request for emails. Its reasoning for doing so was the volume of emails falling within the scope of the request and the work that would be required to prepare these emails for disclosure. It stated that this would impose a significant burden on Staffordshire Police, to the point that the request was vexatious.

21. The burden in this case arises from the time that Staffordshire Police stated it would be necessary to spend on identifying and redacting exempt information from the emails prior to disclosure. The costs provision (section 12) cannot be claimed on the basis of time spent applying exemptions. However, the Commissioner's published guidance on section 14(1)<sup>2</sup> allows for the possibility that a request can be refused as vexatious on this basis. The guidance states that:

*"an authority is most likely to have a viable case where:*

- *The requester has asked for a substantial volume of information*  
**AND**
- *The authority has real concerns about potentially exempt information, which it will be able to substantiate if asked to do so by the ICO*  
**AND**
- *Any potentially exempt information cannot easily be isolated because it is scattered throughout the requested material."*

22. The guidance also states that the Commissioner considers *"there to be a high threshold for refusing a request on such grounds"* and *"we would expect the authority to provide us with clear evidence to substantiate the claim that the request is grossly oppressive"*.

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

23. Staffordshire Police stated that there were 1,693 pages consisting of 405 emails within the scope of the request. The Commissioner had sight of a sample of these emails in relation to a previous case. Its main concern was that some of this information would be the personal data of third parties and it would be unfair to those individuals to disclose this information, hence it would require redaction under the exemption provided by section 40(2) of the FOIA.
24. Staffordshire Police also referred to "*sensitive contractual information*", but did not explain under which section it believed that such information may be exempt, nor provide any evidence to substantiate this reasoning. The Commissioner has not considered this point further.
25. On the issue of information it believed would be exempt under section 40(2), the concern of Staffordshire Police appeared to be about two main categories of personal data - names and email addresses of staff members who had been the senders or recipients of the emails, and other personal information appearing within the emails, including individuals' salaries.
26. In relation to the first category, the Commissioner is not convinced that it would be necessary for this information to be redacted under section 40(2), or at least not all of it. In general, it will be less likely to be unfair to disclose information that relates to an individual in their professional capacity, rather than information concerning their private life. In this case, the Commissioner does not regard it as clear that it would be necessary to spend time on redacting names of staff members that sent or received emails in their professional capacity as it is unlikely that this information would be exempt under section 40(2) of the FOIA. As a result the Commissioner's view is that the amount of time it would be necessary to spend on redacting personal data would be somewhat less than suggested by Staffordshire Police.
27. In relation to the second category, Staffordshire Police supplied to the ICO a sample of emails within the scope of the request. These emails included information that it clearly would be necessary to redact under section 40(2), including salary information. The Commissioner recognises that it would be necessary to spend time on ensuring that this personal data was removed prior to disclosure and that, given the volume of information in question, this would be a significant amount of time. Of particular note is that exempt information included within the body of emails is likely to be scattered throughout the rest of the information, rather than being possible to isolate easily.
28. Having accepted that it would be necessary to spend a significant amount of time on redacting exempt material, the next issue is whether the work involved in disclosing this information would be

disproportionate to the value of the complainant's information request. The complainant would argue that this request is of significant value due to what he perceives to be issues with the outsourcing of pensions provision by Staffordshire Police. The Commissioner would agree that there is value to the request where this would lead to disclosure of information that would explain more about the actions taken during the outsourcing process and would answer any legitimate questions that remain unanswered about that process.

29. However, the unfocussed nature of the complainant's request means that it is of less value than might otherwise have been the case. What value the request has would only apply in relation to emails that are relevant to the complainant's cause. It is likely that most of the emails exchanged between Staffordshire Police and the outsourced pensions provider will be administrative in nature and their disclosure would be of no use to the complainant. Had the complainant made a more focussed request for information that he believes may be of particular interest, the value of his request would have been higher.
30. In conclusion, the Commissioner has accepted the evidence from Staffordshire Police that preparing the requested information for disclosure would impose a significant burden on it. As to whether the request was nevertheless of such value that this burden would be proportionate, the Commissioner's view is that it would not. Whilst the Commissioner does not dispute that there is some value to this request, this is less than would have been the case had it been more focussed on information likely to be of interest to the complainant. The finding of the Commissioner is, therefore, that the fourth part of the request was vexatious and section 14(1) of the FOIA provided that Staffordshire Police was not obliged to comply with it.

## Other matters

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31. As well as the finding in the previous notice that Staffordshire Police breached the FOIA through failing to respond to the request within 20 working days, the Commissioner notes that there was a further delay at internal review stage, leading to the Commissioner commencing his investigation without waiting for the review to be completed. Staffordshire Police should note that the Commissioner expects internal reviews to be completed within a maximum of 40 working days.
32. The Commissioner's overall view is that the complainant's request was handled very poorly by Staffordshire Police. When the complainant requested an internal review, Staffordshire Police had the opportunity to go some way to remedying the breach of the FOIA recorded in the

earlier decision notice. By failing to efficiently administer the internal review, it squandered this opportunity. A record has been made of the various deficiencies displayed by Staffordshire Police in relation to this information request and these issues may be revisited. In the meantime, Staffordshire Police must ensure that it handles all information requests in accordance with the requirements of the FOIA.



## Right of appeal

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33. 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](mailto:GRC@hmcts.gsi.gov.uk)

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

34. 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.
35. 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** .....

**Ben Tomes**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**