

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 May 2022

Public Authority: Chief Constable of Nottinghamshire Police
Address: Nottinghamshire Police HQ
Sherwood Lodge
Arnold
Nottingham
NG5 8PP

Decision (including any steps ordered)

1. The complainant made a multi-part request relating to a variety of policing matters. Nottinghamshire Police refused to comply with the request, citing section 14(1) (vexatious request) of FOIA.
2. The Commissioner's decision is that Nottinghamshire Police was entitled to apply section 14(1).
3. The Commissioner requires no steps to be taken as a result of this decision.

Request and response

4. On 10 March 2021, the complainant wrote to Nottinghamshire Police and requested information in the following terms:
"Nottinghamshire police"
 1. Is it a crime to fund criminal activity?
 2. If yes, what crime, act etc is it?
 3. If someone was funding criminal activity then would you tell them to stop immediately?
 4. How many police officers have a criminal record (spent & Unspent)?

Drugs

1. How often do the police get drug tested?
2. How are the police drug tested, blood, hair etc etc ?
3. Are these testing's random and who is told prior to these random testing?
4. Have you had officers suddenly go home ill when they know a drug test is due?
5. How many police officers were found positive for drugs in 2018, 2019, 2020, 2021.
6. What class of drug (a, b, c) did they show positive to? Amounts per class per 2018, 2019, 2020, 2021.
7. How many of these officers are still working for the police even after being found positive for drugs?
8. When was the last time all your police officers got tested for drugs?
9. At what age do police officers go into schools to talk about drugs to children?
10. Do police officers get a criminal record when they are found positive for drugs?
11. How many under 18s have you arrested for drug related offences in 2018, 2019, 2020, 2021?
12. Is it a crime to advertise drugs online?
13. Is it your company police [sic] to advertise drugs to under 18 year olds online?
14. How many of your police officers have been confiscating property from the public due to criminal activity and have been selling it online? 2018, 2019, 2020, 2021?
15. How much evidence has gone missing from Nottinghamshire in 2018, 2019, 2020, 2021?

Human Rights Act

1. We see you use peoples compulsory mug shot pictures (taken when arrested) online for missing people or others. Do you need consent to put these pictures online?

2. We see you take pictures of peoples inside of houses. We understand you need to take pictures for evidence but do you need consent to put these pictures online?
3. Is it your policy to publicly embarrass criminals when they are found guilty?
4. If I called someone 'dopey' is it a criminal offence?
5. If I called someone 'dopey' who was a foreigner, is this discrimination by race or any sort of crime?

Sex Offences

1. How many police officers have been found guilty for any crimes relating to sex offences in 2018, 2019, 2020, 2021?
2. How many police officers have had allegations against them for any sex offences in 2018, 2019, 2020, 2021?
3. How many police officers are still working for the police from the allegations and crimes in point 1 and 2?
4. How many of your police officers have ended up being Intimate with victims of alleged crime in 2018, 2019, 2020, 2021?
5. When someone reports Rape, how fast do you deal with this?
6. How many people do you have on the sex offenders register?

Broxtowe Police station;

1. When police make a phone call to the public, when is this updated on the system?
2. Should the police officers be updating the police database on every phone call they make?
3. Should the police be ringing us from there personal numbers?
4. How many warnings has [Officer 1, name redacted] had with the police?
5. How many complaints has [Officer 1, name redacted] had with the police?
6. Does [Officer 1, name redacted] have a criminal record (spent or unspent)?

7. Is it standard procedure for the police to travel from Nottinghamshire to Derbyshire to deal with an alleged crime?
 8. Do the police have to register all there [sic] electronic devices with the police?
 9. If so, when did [Officer 1, name redacted] register his portable untracebake [sic] camera with the police?
 10. Which police officer manages the PCs at this station?
 11. If a police officers entered your property through a window and you hit him with a baseball bat, is this a crime? Or is it self defence as police officers wouldn't be coming into your property through a window?
 12. How may domestic abuse reports have you not dealt with because you say you do not have the time? 2018, 2019, 2020, 2021?
 13. Is it a crime to call a police officer the following? 'pig' 'corrupt' 'pedo' 'groomer of children' 'sexual predator' 'hot fuz wannable' 'rat'
 14. How many reports of data protection breaches have you had since March 2018? 2018, 2019, 2020, 2021?"
5. Nottinghamshire Police responded on 16 April 2021, in correspondence dated 13 April 2021. It refused to comply with the request citing section 14 (vexatious request) of FOIA.
 6. Following an internal review Nottinghamshire Police wrote to the complainant on 23 April 2021. While it apologised that its earlier response was not provided within the statutory 20 working day time limit, it maintained its position that section 14 applies to the request.

Scope of the case

7. Following earlier correspondence, the complainant contacted the Commissioner on 23 June 2021 to complain about the way his request for information had been handled.
8. The analysis below considers Nottinghamshire Police's application of section 14 of FOIA to the requested information.

Reasons for decision

Section 14 vexatious request

9. Section 14(1) of FOIA states:

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

10. Section 14(1) of FOIA is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.

11. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.

12. Most people exercise their right of access responsibly. However, a few may misuse or abuse FOIA by submitting requests which are intended to be annoying, disruptive or have a disproportionate impact on a public authority.

13. In his published guidance on dealing with vexatious requests¹, the Commissioner considers the key question the public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.

14. In that respect, his guidance advises public authorities that:

“A useful starting point is to assess the value or purpose of the request before you look at the impact handling the request would have on you”.

15. The emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (ACC), (28 January 2013).

¹ <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/dealing-with-vexatious-requests-section-14/>

16. In the Dransfield case, the Upper Tribunal also found it instructive to assess the question of whether a request is truly vexatious by considering four broad issues: (1) the burden imposed by the request (on the public authority and its staff), (2) the motive of the requester, (3) the value or serious purpose of the request and (4) harassment or distress of and to staff.
17. The Upper Tribunal did, however, also caution that these considerations were not meant to be exhaustive. The Upper Tribunal emphasised that:

“all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA” (paragraph 82).

Nottinghamshire Police's view

18. In correspondence with the complainant, having conducted a review of its handling of the request, Nottinghamshire Police told the complainant:

“Having reviewed your request, it is also evident that this request may be ill intentioned and designed to cause disruption and harassment to Police personnel. This is evident from your line of questioning where you have singled out individual Police Officers and also from your language used. This is only strengthened by your accusations made against the Information Management staff in your follow up correspondence”.

19. In its submission, Nottinghamshire Police provided the Commissioner with context to the request and explained the history of engagement - and the ongoing dealings - it had with the complainant.

20. Summarising its position with regard to its application of section 14, Nottinghamshire Police told the Commissioner:

“[The complainant's] request consisted of 44 separate questions the majority of which were hypothetical in nature which would therefore make them invalid under the Freedom of Information Act.

...

[The complainant] has a long running history of making frivolous requests to Nottinghamshire Police in an attempt to disrupt Police services.”

21. In support of its position, Nottinghamshire Police provided the Commissioner with details of some of the other requests for information it has received from the complainant. Those requests included both FOIA requests and subject access requests under the Data Protection Act

2018 (DPA). In providing those examples, Nottinghamshire Police advised that it has only retained two years' worth of requests.

22. It told the Commissioner:

"It is the position of Nottinghamshire Police that [the complainant] is using the Freedom of Information and the Data Protection Acts as a means of causing undue harassment to the Organisation through frequent and frivolous information requests".

23. While acknowledging that section 14(1) can only apply to the request itself, and not to the individual who submits it, Nottinghamshire Police argued that the request under consideration in this case does not represent a real attempt to obtain requested information, but rather an attempt to cause undue disruption to the Police Force. It told the Commissioner:

"It can be seen from the questions involved in this request that some are purely a form of causing disruption, making frivolous allegations of wrong-doing against the Force or making thinly disguised 'jibes'".

24. Nottinghamshire Police also argued that the request was motivated by the complainant's wider grievances against organisations, including Nottinghamshire Police. It referred the Commissioner to videos the complainant has posted to a website and on Youtube that it considered supported that view. It considered that it is evident from the videos and website "that he harbours a long standing grudge" against Nottinghamshire Police.

25. Against that background, Nottinghamshire Police did, however, acknowledge that some of the questions within the multi-part request comprise valid requests for recorded information. It explained that, in order to comply with the request, each of the questions that were deemed to be valid requests would need to be individually researched in order to ascertain whether the requested information was held, reviewed with relevant exemptions being applied as appropriate and disclosed.

26. With regard to the impact of complying with the request, Nottinghamshire Police told the Commissioner:

"Although it is the responsibility of the Information request team to deal with requests under the DPA and the FOIA, we cannot do this without assistance from our Operational colleagues in order to provide the information to us. Time spent by Operational Officers providing information in respect of FOI requests is time which takes them away from their policing duties".

27. In addition to the evidencing the burden of the request, and the motive of the requester, Nottinghamshire Police also cited instances where the requester had caused staff members personal harassment and distress.

The Commissioner's view

28. As discussed in the Commissioner's guidance, the relevant consideration is whether the request itself is vexatious, rather than the individual submitting it.

Is the request likely to cause a disproportionate or unjustified level of disruption, irritation or distress?

29. When considering this issue, the Upper Tribunal in Dransfield asked itself "Does the request have a value or serious purpose in terms of there being an objective public interest in the information sought?" (paragraph 38).
30. In his guidance, the Commissioner recognises:

"The public interest can encompass a wide range of values and principles relating to what is in the best interests of society, including, but not limited to:

- holding public authorities to account for their performance;
- understanding their decisions;
- transparency; and
- ensuring justice."

The value of the request

31. The Commissioner acknowledges that the subject matter of some of the questions with the request relate to matters that are matters of public interest.
32. He accepts that, by seeking transparency and accountability, some parts of the multi-part request have a value or serious purpose.

The negative impacts of the request - burden, motive and harassment

33. The Commissioner acknowledges that Nottinghamshire Police considers that the motive of the requester is to cause undue disruption.
34. The Commissioner has not accessed the website and videos referenced by both Nottinghamshire Police and the complainant. However, the Commissioner considers that the complainant's views and frustration

with Nottinghamshire Police are evident in the tone of his correspondence.

35. The Commissioner is also mindful of the tone and language used by the complainant when requesting an internal review of Nottinghamshire Police's refusal to comply with his request.
36. He notes that the complainant accused Nottinghamshire Police of covering up crimes and speculated that the author must be part of an alleged gang. He also told Nottinghamshire Police:

"No comment answers are an admission of guilt! It seems that you are corrupt!"
37. While public officials can, of course, be subject to criticism, the Commissioner finds that these examples go beyond the level of criticism that a public authority or its employees should reasonably expect to receive.
38. He considers that, in the circumstances of this case, this lessens the value of the request and supports the argument that the request is vexatious.

Balancing the value of the request against those negative impacts

39. In reaching a decision in this case, the Commissioner has balanced the purpose and value of the request against the detrimental effect on the public authority.
40. He has also considered, in light of the nature, and degree, of the dealings between the complainant and Nottinghamshire Police, whether, at the time, the request crossed the threshold of what was reasonable.
41. To the extent that some of the requests referenced by Nottinghamshire Police in support of its view that the request is vexatious post-date the request under consideration in this case, the Commissioner has not taken them into account. However he considers that they are still relevant to the extent that they explain the nature of the dealings between the parties and a developing pattern of behaviour.
42. The Commissioner also noted the tone used, and derogatory comments made, by the complainant in his correspondence with Nottinghamshire Police and with the Commissioner himself, as evidence of the way the complainant conducts himself. He has also noted the titles of the videos that Nottinghamshire Police highlighted.
43. The Commissioner is mindful of the number of questions and breadth of the request in this case, as well as the subject matters raised.

44. He acknowledges that Nottinghamshire Police considered that while some of the questions within the request are not valid requests for information, complying with the valid questions would impose an unreasonable burden.
45. The purpose of section 14 of FOIA is to protect public authorities and their employees in their everyday business. In his guidance, the Commissioner recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
46. Having balanced the purpose and value of the request against the detrimental effect on Nottinghamshire Police the Commissioner is satisfied that the multi-part request was an abuse of FOIA procedure.

Conclusion

47. On the basis of the evidence provided, and taking into account the findings of the Upper Tribunal in Dransfield that a holistic and broad approach should be taken in respect of section 14(1), the Commissioner is satisfied that the request was a manifestly unjustified and improper use of FOIA such as to be vexatious.
48. In the circumstances of this case, the Commissioner is satisfied that Nottinghamshire Police was entitled to consider the request dated 10 March 2021 vexatious.

Right of appeal

49. 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@justice.gov.uk

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

50. 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.
51. 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

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