

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 March 2024

Public Authority: National Police Chiefs' Council
Address: 50 Broadway
London
SW1H 0BL

Decision (including any steps ordered)

1. The complainant requested information relating to investigation of thefts. The National Police Chiefs' Council (NPCC) relied on section 14(1) of FOIA (vexatious) to refuse the request.
2. The Commissioner's decision is that the request was vexatious and therefore the NPCC was entitled to rely upon section 14(1) of FOIA to refuse it.
3. The Commissioner does not require any steps.

Request and response

4. The complainant wrote to the public authority and requested information in the following terms:

"I refer to the report at <https://www.bbc.com/news/uk-66636347> 'Every theft must be investigated, home secretary tells police.'

Please provide a copy of the correspondence / exchanges / information currently available:
 1. giving rise to the requirement that the police must 'now' follow every reasonable line of inquiry.
 2. That defines or explains 'reasonable' (line of enquiry)

3. the direction(s) to police and specify whether this: a. creates an obligation i.e., the police 'must' investigate every theft and 'must' follow all reasonable leads or b. This is a lesser 'ask' (Yvette Cooper), a request.
4. The date from which the requirement / approach is effective The above will include the correspondence sent to constabularies and Police & Crime Commissioners together with their replies and subsequent exchanges. *this will extend to information not to published in the future."
5. The NPCC responded to the complainant on 2 October 2023 stating that the request was 'over-burdensome' and applied section 14(1) of FOIA. The complainant requested an internal review, to which the NPCC provided its response on 24 October 2023.

Reasons for decision

Section 14(1) – vexatious requests

6. The following analysis considers whether the request was vexatious.
7. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
8. The word "vexatious" is not defined in FOIA. However, as the Commissioner's updated guidance on section 14(1)¹ states, it is established that section 14(1) 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.
9. 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.
10. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream

¹ <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.

11. The emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) ("Dransfield")². Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.
12. Dransfield established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
13. The four broad themes considered by the Upper Tribunal in Dransfield were:
 - the burden (on the public authority and its staff);
 - the motive (of the requester);
 - the value or serious purpose (of the request); and
 - any harassment or distress (of and to staff).
14. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. It stated:

"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).

The NPCC's view

15. The NPCC states that there is an excessive amount of emails from many different members of the NPCC and stakeholders. The amount of redaction will vary in each email / document depending on the nature of the emails / documents, the type and amount of information recorded will require to be considered on a case-by-case basis to include time and

² <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

location data, details of individuals, and any operational details including circumstances and possible ongoing investigations.

16. A public authority cannot claim section 12 for the cost and effort associated with considering exemptions or redacting exempt information. However, it may apply section 14(1) where it can make a case that the amount of time required to review and prepare the information or disclosure would impose a grossly oppressive burden to the authority. There is a high threshold for refusing a request on such grounds.
17. The NPCC considers that it has a viable case for applying section 14(1) as the complainant has requested a substantial volume of information and the NPCC has real concerns about potentially exempt information, which it states that it is able to substantiate. The NPCC also states that any potentially exempt information cannot easily be isolated because it is scattered throughout the requested material.

- **Substantial Volume**

In order to make an assessment of the work that would be involved in processing this request, the NPCC considered relevant information received from one individual within the Investigations Portfolio contained in excess of 40 emails and documents. The first 10 emails were examined and were found to contain multiple chains of emails (many with additional documents attached) many of which were duplicated within each thread.

A spreadsheet was created in order to copy emails into chronological order to avoid duplication when contacting third parties/consultation efforts. The intention was to create a further spreadsheet with a list of third parties to consult to avoid any further duplication. This process for these emails which included attachments and embedded documents, along with reading and deleting duplicates, took over 6 hours.

This 6 hours work did not include contacting the provisionally identified additional 17 NPCC employees for information retrieval from other NPCC business areas such as (1) Other Portfolios (2) Communications and Central Office; the retrieval of hand written/electronic notes and meeting minutes; nor the cost and effort associated with collating and sending information to individuals and business owners to consider exemptions or redacting information.

The NPCC estimated that to complete the entire processes would take a minimum of 100 hours to prepare a response for the complainant's request.

- **Potentially Exempt Information**

The NPCC confirmed that the information in scope of the request contains potentially exempt information. The most obvious of this is in the form of personal information and information that could undermine Law Enforcement.

- **Easy Isolation of Exempt Information**

The final criterion seeks to determine if the potentially exempt information can be easily isolated and extracted/redacted to reduce the burden of processing the request. While there are some recurring documents and emails, a full analysis of all the emails and documents would have to be conducted to identify and isolate all potentially exempt information. It is acknowledged that the review of NPCC policy in respect of reasonable lines of inquiry could have an impact on individuals and businesses across the country and there is value to the complainant's request in terms of being transparent in respect of the process and guidance provided to forces. However the amount of resource required to process this request needs to be considered against the significant impact and heavy strain on time and resources within the NPCC FOI team, which consists of just two members of staff. If this request was to be processed it would take several weeks and would directly impact on the NPCC FOI team's ability to progress other requests and place at risk NPCC's ability to comply more broadly with FOIA statutory timeframes.

18. The NPCC stated that it should also be recognised that the new guidance is published on the College of Policing website and there is already other information in the public domain. The NPCC further informed the Commissioner that it has done its best to provide additional information that the complainant would find helpful including links to relevant information, College of Policing guidance and further bespoke information provided by the NPCC Investigations portfolio.
19. Taking all these factors into consideration, the NPCC considers that the effort required to respond to the complainant's request in full would impose a grossly oppressive burden on the NPCC and that Section 14 is engaged.

The complainant's view

20. The complainant does not accept the request is burdensome. They state that it is clearly a well-defined subject for which the Home Office has managed to provide them with a brief timeline.

The Commissioner's decision

21. In cases where a public authority is relying on section 14(1), it is for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.
22. With regard to the criteria set out above, the Commissioner is satisfied that the first criterion is met as there is a significant amount of information involved.
23. With regard to the second criterion, having examined a sample of the information, the Commissioner also accepts that parts of it may attract exemptions under FOIA and that such exempt information is dispersed throughout the information in scope.
24. With regard to the third criterion, the Commissioner accepts that searching through a substantial number of documents is likely to be a burdensome process. As there are only two members of staff in the relevant team, the Commissioner accepts that isolating the exempt information with a view to extracting/redacting such information would create a significant and heavy strain on the time and resources of the NPCC.
25. The Commissioner therefore accepts that processing the request would involve the NPCC expending a substantial volume of time on processing the request. The Commissioner accepts that processing the request would therefore be burdensome.
26. With regard to the value and purpose of the request, the Commissioner agrees that there is a legitimate public interest in the disclosure of information concerning the Home Secretary's comments on investigation of thefts. However, in the Commissioner's view this value and purpose is not sufficient to outweigh the burden that complying with the request would place on the NPCC especially as there is information already in the public domain which would go some way towards satisfying any public interest in this issue.
27. The Commissioner is satisfied that the NPCC was entitled to rely on section 14(1) of FOIA to refuse the request because it was vexatious.

Right of appeal

28. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

29. 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.
30. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Deirdre Collins
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