

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 6 April 2023

**Public Authority:** Office of the Police and Crime Commissioner for Dorset

**Address:** Force Headquarters  
Winfrith  
Dorchester  
Dorset  
DT2 8DZ

#### **Decision (including any steps ordered)**

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1. The complainant has requested information relating to the handling of a particular allegation of misconduct in a public office against a number of individuals. The Office of the Police and Crime Commissioner for Dorset ("OPCC") refused the request under section 14(1) (vexatious requests) of FOIA.
2. The Commissioner's decision is that the request was vexatious and therefore the OPCC was entitled to rely on section 14(1) of FOIA to refuse it.
3. The Commissioner does not require the OPCC to take any further steps in relation to this matter.

#### **Request and response**

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4. On 4 November 2022, the complainant wrote to OPCC and requested information in the following terms:

"As you will have read above the Complaints and Discipline Department of the Dorset Police sought my permission to forward the information contained in those three documents to your Office.

- 1) Under the Freedom of Information Act 2000 I request confirmation that those three documents referred to, were forwarded to, and received at your Office for your consideration and attention on or about the 20<sup>th</sup> May 2021.
- 2) I have attached a copy of the email dated 18<sup>th</sup> May 2021 sent to the Complaints and Misconduct Department to which the three documents referred to above were attached. I ask was that document included in the information sent to you by the Complaints and Misconduct Department on or about the 20<sup>th</sup> May 2021.
- 3) Under the Freedom of Information Act 2000 I further request the following information. If on receipt of the documents from the Complaints and Discipline Department on or about the 20<sup>th</sup> May 2021, did you respond to in any way to that information received in any email or any other written or electronic format? If so I request a copy of your response to that email be that in any electronic or written format. I ask that that information be forwarded for my attention to [redacted]
- 4) The information you received from the Complaints and Misconduct Department alleged offences of Misconduct in a Public Office against a number of individuals including [redacted] who at that time was still in post. It was your responsibility as Police and Crime Commissioner to investigate complaints against [redacted], what action did you take as a result of receiving details of that complaint from the Complaints and Misconduct Department?
- 5) As Police and Crime Commissioner you are responsible for recording all complaints against [redacted]. Did you record the complaint against [redacted] in that register? If so under the Freedom of Information Act 2000 I request a copy of that register to show that that complaint was registered. I ask that that copy be sent for my attention in electronic format to [redacted]
- 6) [redacted] officially retired as [redacted] on the 13<sup>th</sup> August 2021, however prior to his retirement he would have taken leave. What was the last day that [redacted] actually served as [redacted]?
- 7) After receiving information concerning those allegations of Misconduct in Public Office against [redacted], did you or any members of your Office conduct an enquiry or make any

investigation into the allegations. If so what were they, and who conducted those investigations?"

5. The OPCC responded on 7 December 2022. It refused to comply with the request, citing section 14(1) of FOIA as its basis for doing so.
6. Following an internal review, the OPCC wrote to the complainant on 25 January 2023. It upheld its original position.

## **Reasons for decision**

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### **Section 14(1) – vexatious requests**

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)<sup>1</sup> 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 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.
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”)<sup>2</sup>. Although the case was subsequently appealed to the

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

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

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. They 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).
15. In this case, the OPCC explained the background behind this particular request for information, which relates to a complaint the complainant submitted to the OPCC in 2018 regarding their dissatisfaction with comments which the then Police and Crime Commissioner had made. Since that initial complaint was submitted some four and half years ago, the OPCC explained that the complainant has contacted it on numerous occasions about the same topic, along with their belief that the subsequent handling of their dissatisfaction with those comments has been incorrect and/or corrupt.
16. For further context, the OPCC explained that the initial complaint was considered by the Chief Executive and was not upheld. The complaint was then further examined by the Dorset Police and Crime Panel and was again not upheld.
17. As a result of the initial complaint not being upheld, the complainant then went on to submit complaints about multiple individuals who had been involved in its handling, essentially alleging corruption and malpractice. The complainant's allegations against those individuals were first considered by the Police and Crime Panel, which found that there was no evidence of malpractice or criminal conduct by any of the individuals involved in managing the complaint. The complainant then

took the matter to the Local Government and Social Care Ombudsman, who found that there was no basis to warrant investigating the matter any further.

18. Between 2018 and 2019 the complainant sent dozens of items of correspondence surrounding the above matters to the OPCC, which included eight requests for information under FOIA. The complainant was advised at that time that their frequent correspondence with the OPCC about this subject was vexatious.
19. With all avenues for correspondence and reconsideration of the complaints now closed following the complaints not being upheld, the complainant has recommenced submitting requests for information under FOIA about the same matters. Whilst the requests are not repeated, in the sense that they are not asking for exactly the same information each time, they are all relating back to the same subject matter. In an internal review of one of those requests, dated 28 October 2022, the OPCC again told the complainant that their request was vexatious and that they would not comply with any future request on this subject. It therefore follows that the OPCC has refused this request due to it being vexatious.
20. In reaching its conclusion that the request is vexatious, the OPCC has considered the general value, or merit, of the request. It is clear that the complainant does not agree with the outcomes of both their initial complaint about the Police and Crime Commissioner's comments in 2018, nor the outcomes of their subsequent complaints about the individuals who managed that initial complaint. The OPCC stated that it is clear that the requests for information under FOIA are further attempts to revisit matters which have already been comprehensively investigated and revisited several times, including by organisations independent from the OPCC.
21. The OPCC firmly believes that the intent behind the FOIA requests is to argue points which have already been examined and concluded, rather than revealing new or pertinent information. It does not consider that complying with the request would provide the complainant, or the wider general public, with any further transparency or understanding of decision-making behind a matter which has already been extensively discussed in the public domain, including by the Police and Crime Panel which is responsible for ensuring that relevant information is made available to the public in order that they can effectively hold the OPCC to account.
22. The OPCC also considered the complainant's motives behind the requests for information. Through their requests, the complainant continues to allege criminal wrongdoing and malpractice. The continued

pursuit of unsubstantiated allegations – which have been fully investigated and not upheld - against almost every individual involved with the handling of the initial complaint (including some junior members of staff), is causing upset and distress amongst those involved.

23. Finally, the OPCC considered the burden placed upon it. The OPCC outlined that it is a small public authority with a wide range of responsibilities. The complainant has shown a pattern of submitting voluminous, wide-ranging and repetitive requests under FOIA, and, upon receiving responses, responding several times more to argue points. The requests are often seeking opinions or answers to questions rather than recorded information. Equally, at times they seek documents which are not only in the public domain, but which the OPCC is aware are also already in the complainant's own possession.
24. On the basis that the complainant has pursued this matter for four and a half years so far, the OPCC finds it reasonable to assume that this pattern will continue. The OPCC considers that the amount of time and resources which it is expending on this matter is disproportionate, and it is therefore an unreasonable burden.

### **The Commissioner's decision**

25. 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.
26. Firstly, the Commissioner finds that the continued raising of allegations against individuals through requests for information under FOIA is a wholly improper use of the legislation, in particular when all allegations have already been fully investigated through the appropriate channels for such concerns, and no evidence of any wrong-doing was found.
27. The Commissioner accepts the OPCC's assertion that the complainant appears to have become unreasonably entrenched in their position on this subject, so responding to this request would be highly likely to generate further related requests and correspondence, thereby placing further burden upon the resources of the OPCC.
28. FOIA is not a means of recourse when the appropriate avenues for raising such concerns have failed to provide a complainant with the outcome they are seeking. The Commissioner considers it highly unlikely that compliance with the request will deliver any information of value that is likely to satisfy the intentions of the complainant in this case. Nor does he find that complying would satisfy any objective public interest.

29. The Commissioner is satisfied that in all circumstances of this case the OPCC has clearly demonstrated that the request was vexatious and, therefore, it was entitled to rely on section 14(1) of FOIA to refuse 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

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 .....**

**Catherine Fletcher**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**