

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 November 2011

Public Authority: Chief Constable of South Yorkshire Police
Address: Police Headquarters
Snig Hill
Sheffield
S3 8LY

Decision (including any steps ordered)

1. The complainant has requested information about South Yorkshire Police's interaction with the Crown Prosecution Service with respect to the death of her father. The request was refused under section 14(1) of the Freedom of Information Act ('the FOIA') as the request was considered to be vexatious.
2. The Information Commissioner's ('the Commissioner') decision is that South Yorkshire Police ('SYP') has dealt with the request for information in accordance with the FOIA and requires no steps to be taken by SYP.

Request and response

3. On 22 February 2011 the complainant wrote to SYP and requested information relating to the death of her father in the following terms:

"I would like to make the following requests under FOIA or DPA, whichever is the most effective of the two, in gaining the reply.

I should point out that I was 'involved' in this death, as a witness to fact, and a person who asked for Police Help.

1. When was the Crown Prosecution Service approached by South Yorkshire Police?
2. By whom – name and job description – was the Crown Prosecution Service approached?

3. What response did the Crown Prosecution Service make to that approach?
 4. Who – name and job description – at the Crown Prosecution Service – dealt with the matter?
 5. If the Crown Prosecution Service was not approached, why was it not approached?
 6. Who – name and job description – made that decision not to approach the Crown Prosecution Service?"
4. SYP responded on 23 February 2011. It stated that the request was considered to be vexatious and referred the complainant to earlier correspondence which contained a full explanation of SYP's rationale in treating the request as vexatious. SYP advised the complainant that it would not undertake an internal review of its decision.

Scope of the case

5. The complainant contacted the Commissioner to complain about the way her request for information had been handled. The complainant stated that SYP had refused to investigate the death of her father and had treated her requests for an investigation as 'vexatious' without 'good reason' to do so. The complainant disputed the assertion made by the police that she had made 12 information requests in connection with the death of her father.
6. The Commissioner confirmed to the complainant that the focus of his investigation of the case was to determine whether SYP had legitimately considered her request to be vexatious.

Reasons for decision

7. Section 14(1) of the FOIA states that a public authority does not have a duty to comply with a request if the request is vexatious. As a general principle, the Commissioner considers that this section of the FOIA is meant to serve as protection to public authorities against those who may abuse the right to seek information.
8. To determine whether this request can accurately be characterised as vexatious the Commissioner has considered the following factors:
 - Could the request fairly be seen as obsessive?
 - Is the request harassing the authority or distressing to staff?

- Would complying with the request impose a significant burden in terms of expense and distraction?
 - Is the request designed to cause disruption or annoyance?
 - Does the request lack any serious purpose or value?
9. In establishing which, if any, of these factors apply, the Commissioner will consider the history and context of the request. In certain cases, a request may not be vexatious in isolation but when considered in context it may form a wider pattern of behaviour that makes it vexatious. The Commissioner recognises, however, that it is the request and not the requester that must be vexatious for the exclusion to be engaged.

Could the request fairly be seen as obsessive?

10. An obsessive request is often a strong indication that the request is vexatious. Contributory factors can include the volume and frequency of correspondence and whether there is a clear intention to use the request to reopen issues that have already been addressed.
11. SYP provided the Commissioner with a spreadsheet which detailed the correspondence between the complainant and SYP from April 2004 to August 2011. The spreadsheet included references to the complainant's correspondence with other public authorities and individuals, including the Independent Police Complaints Commission (IPCC), South Yorkshire Police Authority and government ministers, and outlined actions taken by SYP in response to the complainant's correspondence. All of the entries on the spreadsheet concern the death of the complainant's father and the refusal of SYP to investigate that matter. Over 110 of the entries detail correspondence from the complainant to SYP. The complainant's sister has also pursued the same matters. The combined list of the complainant and her sister's contact with SYP and the Police Authority in respect of this matter consists of 310 entries – 196 of these entries relate solely to SYP. Contained within the complainant's correspondence are twelve FOI requests dating from January 2005 until February 2011.
12. The complainant informed the Commissioner that she had not repeatedly made a request for the same information on twelve occasions.
13. The Commissioner accepts the complainant's position regarding her information requests in that they do not repeat a particular set of questions. Nevertheless they do relate to the same matter.

14. The complainant has pursued her inquiries regarding the death of her father for seven years. The matter is also the subject of a website¹ which contains detailed information including statements, extracts from numerous individuals, and medical information concerning her father. The complainant refuses to be satisfied with the investigations conducted by SYP, South Yorkshire Police Authority, the Independent Police Complaints Commission, Doncaster Primary Care Trust, South Yorkshire Coroner and West Yorkshire Police and persists with her goal to initiate further investigation.
15. The Commissioner considers that the request in this case is not obsessive in isolation but forms part of an obsessive pattern of behaviour, when considered in the context of the evidence provided by the police. He considers that the correspondence has crossed a line separating persistence from obsession.

Is the request harassing the authority or distressing to staff?

16. The Commissioner's guidance on this factor also refers to the volume and frequency of correspondence as being relevant issues alongside the use of hostile, abusive or offensive language and mingling requests with accusations and complaints.
17. The complainant has complained to two other police forces about SYP's actions in respect of her father's death. The resultant investigations have failed to find any wrong-doing. The force itself has received several complaints from the complainant about a number of SYP police officers which, following investigation, have led to further complaints to the IPCC, which in turn have been determined to be unfounded.
18. SYP has provided the Commissioner with copies of emails from the complainant containing implied threats which the Commissioner accepts could be distressing for staff.
19. The Commissioner is satisfied that the volume and frequency of the complainant's communication; its sometimes hostile, accusatory and condemnatory tone; the pattern of complaints about SYP; and the on-going requests for information have created a situation which amounts to harassment of the SYP. The Commissioner considers that a reasonable person would conclude that the complainant's request of 22

¹ <http://ralphwinstanleyofwath.blogspot.com/>

February 2011, viewed in the context of the history of her case, would have the effect of harassing the SYP.

20. The Commissioner also considers that should SYP have answered the complainant's latest request, any response it would have made would have prompted further correspondence, complaints and requests.

Would complying with the request impose a significant burden in terms of expense and distraction?

21. The Commissioner has considered this request as one element of the total correspondence received by SYP over a sustained period. This correspondence and the actions taken by the police in response to it has created a significant administrative burden.
22. Taken in isolation, complying with the request would not be unreasonable. However, the Commissioner accepts that a large amount of police time has been spent dealing with the many aspects of the complainant's correspondence on the same subject. The correspondence has involved several highly ranked officers within SYP and in other public authorities.
23. The Commissioner is aware that the complainant's concerns regarding the circumstances of her father's death drive her desire for further investigation of the matter. However, SYP has informed the Commissioner that the matter was investigated by SYP and the other public authorities listed in paragraph 14 above, and that a coroner's inquest returned a verdict of natural causes and there was no reason for the police to undertake further investigation. The Commissioner is satisfied that dealing with the volume of correspondence created by the complainant and her sibling in their pursuit of further investigation has resulted in members of SYP being distracted from their core roles resulting in a burden and a drain on resources.

Is the request designed to cause disruption or annoyance?

24. This question requires evidence to demonstrate it was the specific intention of the complainant to cause annoyance and disruption. Whilst the Commissioner considers that disruption and annoyance may have been caused by the complainant's correspondence, he has no evidence to suggest that it was the complainant's purpose to have this effect when making her request.

Does the request lack any serious purpose or value?

25. The complainant has made clear her opinion that her father was murdered. She has contributed to blogs, placed information on internet

sites, contacted the media and articulated her concerns to a number of public authorities. She considers that SYP has not investigated the death of her father and she continues to hold this opinion despite all her complaints being determined to be unsubstantiated. SYP has informed the Commissioner that the inquest ruled that the death was not in any way suspicious.

26. The complainant has stated that:

"The real purpose and value [of the request] is to gain the formal investigation which South Yorkshire Police, laughing as it went, has always refused to make. That is a dereliction of its 'public duty'."

27. The Commissioner has considered the complainant's statement and cannot accept that the request would assist in this objective. The request may have a serious purpose and value in further informing the complainant. However it did not justify the continued pursuit of a matter which has been investigated, albeit not to the satisfaction of the complainant.

Conclusion

28. Having considered the five factors relevant to an assessment of whether a request is vexatious, the Commissioner has decided that on balance there is sufficient weight in varying degrees in the first three factors to conclude that the request was vexatious and SYP's application of section 14(1) was correct.

Right of appeal

29. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

30. 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.
31. 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

Alexander Ganotis
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