

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 23 June 2014

**Public Authority:** Chief Constable of Greater Manchester Police  
**Address:** Openshaw Complex  
Lawton Street  
Openshaw  
Manchester  
M40 5BP

### Decision (including any steps ordered)

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1. The complainant has requested information about Greater Manchester Police (GMP) Professional Standards Branch (PSB) staff email addresses. GMP refused the request as vexatious under section 14(1) of the FOIA.
2. The Commissioner's decision is that GMP has correctly applied the vexatious provision at section 14(1) of the FOIA. He notes however that the response was provided outside the statutory time limit of 20 working days and therefore GMP has breached section 17(5) of the FOIA. He does not require any steps to be taken.

### Request and response

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3. On 6 November 2013, the complainant wrote to GMP and requested information in the following terms:  
  
*"Please supply a list of work Email address's for all personnel who work within the Greater Manchester Police Professional Standards department who communicate with members of the public as part of their employment."*
4. On 3 January 2014 GMP responded. GMP advised that it was treating the request as vexatious and that accordingly it was not obliged by section

1(1) of the FOIA to comply with the request. The response provided background information relating to communication with officers of the PSB.

5. The complainant requested an internal review on 4 January 2014. GMP sent the outcome of its internal review on 30 January 2014. It upheld its original position.

### **Scope of the case**

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6. The complainant contacted the Commissioner on 9 December 2013 to complain about the way his request for information had been handled. Specifically he complained that "GMP habitually breach the FOIA" and requested that a decision notice be issued.
7. The Commissioner considers the scope of the investigation is to determine whether GMP was correct to apply section 14 to the request.

### **Reasons for decision**

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8. Section 14(1) FOIA states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious. There is no public interest test.
9. The term "vexatious" is not defined in the FOIA. The Upper Tribunal recently considered the issue of vexatious requests in the case of the *Information Commissioner v Devon CC & Dransfield*<sup>1</sup>. The Tribunal commented that vexatious could be defined as the "*manifestly unjustified, inappropriate or improper use of a formal procedure*". The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.
10. 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.

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<sup>1</sup> GIA/3037/2011

11. The Upper Tribunal did however also caution that these considerations were not meant to be exhaustive. Rather, it stressed the

*“importance of adopting a holistic and broad approach to the determination of whether a request is vexatious or not, emphasising the attributes of manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious requests” (paragraph 45).*

12. In the Commissioner’s view the key question for public authorities to consider when determining if a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
13. The Commissioner has identified a number of “indicators” which may be useful in identifying vexatious requests. These are set out in his published guidance on vexatious requests<sup>2</sup>. The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of a case will need to be considered in reaching a judgement as to whether a request is vexatious.
14. GMP identified that this request has no serious value or purpose and would be likely to lead to harassment of and/or cause distress to its officers, and therefore the Force.
15. The Commissioner has considered each of these factors in reaching his decision.

### **Is the request vexatious?**

16. The Commissioner considers that a requester is likely to be abusing the section 1 rights of the FOIA if he uses FOIA requests as a means to vent anger at a particular decision, or to harass and annoy the authority, for example by submitting a request for information which he knows to be futile. When assessing whether a request or the impact of dealing with it is justified and proportionate, it is helpful to assess the purpose and value of the request.

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[http://ico.org.uk/for\\_organisations/guidance\\_index/~/\\_media/documents/libr](http://ico.org.uk/for_organisations/guidance_index/~/_media/documents/libr)

[ary/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/dealing-with-vexatious-requests.ashx](#)

17. GMP has in place an established process for receiving and processing complaints. The GMP website advises complainants of a telephone number, postal address and email address should they wish to initiate a complaint. The same details are provided should someone seek this information by contacting the Police non-emergency number 101.
18. In its submission to the Commissioner, GMP has clarified that the use of such a centralised system is the most cost effective and efficient method of communication with members of the public as it helps minimise communication delays and duplication of work and allows for effective and efficient use of resources.
19. GMP stated further that once the initial communication is received and contact is made with a complainant, it is open to the individual PSB officer to communicate with a complainant via their personal GMP email account should they deem it appropriate. GMP stated that this option is used in extremely limited circumstances.
20. Disclosure of the information requested, GMP has argued, would not enhance the assistance provided to the public and in fact could have the opposite effect as it would cause confusion in terms of the correct email address to use to make a complaint and could lead to delays in complaint handling in the event of an officer being absent or having left PSB or GMP.
21. The FOIA is generally considered to be applicant blind, but this does not mean that a public authority may not take into account the wider context in which the request is made or any evidence the applicant has imparted about the purpose behind their request. In this case, the request is made against a backdrop of other communication with GMP.
22. GMP has provided some background and context to this request. It has asserted that PSB and other areas of GMP have had numerous dealings with the complainant over many years in relation to complaints he has made about his dissatisfaction with GMP's services. The complainant has explained that his dealings with GMP initially stemmed from concerns he raised about the behaviour of youths near his home, and his dissatisfaction with the police response. GMP has outlined its view that the persistent manner in which he sought to make complaints since that point was consuming a disproportionate amount of GMP's finite time and resources. GMP has stated that although the harassment is not personal,

it has had a detrimental effect on the welfare of its employees. The complainant has previously prevented other callers accessing the public line due to the length of his calls which take up a disproportionate amount of staff time. He has also prevented other callers from leaving voicemail messages by filling the voicemail facility with his own messages. This pattern of behaviour led to GMP taking the unusual step of restricting the complainant's contact to letter only; a step that has been taken by GMP only four times in 20 years.

23. In November 2008 GMP wrote to the complainant to advise him that his complaints were consuming a disproportionate amount of GMP time and resources. The letter acknowledged the importance of being able to access the complaints procedure and in order to facilitate this, the complainant was advised that any future complaints should be made in writing to the PSB Branch Commander who would assess the issues and determine whether or not to formally record those issues as a complaint. The letter further advised that any decision not to record a complaint as such would attract a right to appeal to the Independent Police Complaints Commission (IPCC).
24. The complainant was notified that staff would not engage with him via telephone nor would staff meet with him to discuss issues other than during the course of handling any formally recorded complaint. He was notified also that this action extended to his local Policing Division, which is within the GMP area, and that it would be notified of the position to be adopted.
25. In considering this previous behaviour, GMP argued that it is likely that the complainant would transfer his behaviour to email communication taking staff away from their role as investigators. GMP has stated that disclosure of the email addresses could lead to a significant increase in unwarranted and unnecessary emails and attachments consuming its very limited storage capacity. The storage capacity, GMP states, is limited to the extent that system users are required to store content in alternative locations.
26. The Commissioner has considered the purpose of this request in the context of other communication with GMP and finds that the effect is to harass and annoy the public authority. He also finds that the request represents an inappropriate and improper use of a public procedure as it represents a potential avenue for circumventing the specific procedure put in place in 2008. In the context of the restriction on his communication with GMP, the complainant must have known the request was incompatible with the decision to assign a single point of contact to deal with his correspondence. Therefore the Commissioner

considers it likely that the complainant was deliberately seeking to undermine GMP's process for handling his correspondence when submitting the request. In the circumstances, this is not a reasonable purpose for making a request for information.

27. The Commissioner has taken into account the context and background to the request and considers that the complainant's persistence in terms of communication with GMP has reached the stage where it could reasonably be described as obsessive.
28. The Commissioner has considered both the public authority's arguments and the complainant's position regarding the information request. Taking into consideration 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 has decided that GMP was correct to find the request vexatious. He has balanced the purpose and value of the request against the detrimental effect on the public authority and is satisfied that the request has no real purpose or value as the complainant has been provided with a single point of contact for any complaint he wishes to register. In terms of the detrimental effect the Commissioner concludes that the request could be seen as obsessive and having the effect of harassing the public authority. Disclosure of the email addresses to the public under FOIA could undermine the effective procedures GMP has in place for complaint handling. Accordingly the Commissioner finds that section 14(1) has been applied appropriately in this instance.
29. However, the Commissioner finds that GMP failed to comply with section 17(5), which requires a public authority relying upon sections 12 or 14 of the FOIA to give the applicant a notice stating that fact within 20 working days.

## **Other matters**

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30. The Commissioner notes that GMP did not respond to his questions about this case in a timely manner. He asks that in all future correspondence with his office, GMP ensures that responses are complete and timely. He notes too that some of the responses GMP provided assessed that the questions posed as part of the investigation were disproportionate. The Commissioner asserts that the application of section 14 to a request is a decision which should not be taken lightly by a public authority and that any questions posed as part of an investigation into the application of section 14 must be addressed fully and responded to appropriately.

31. However, in relation to the complainant's assertion that GMP habitually breaches the FOIA, the Commissioner notes that all of the Decision Notices he has issued regarding GMP are published on ICO website. Since 2005, the Commissioner has issued 27 decision notices in respect of GMP. Twelve of those cases resulted in the complaint being upheld, fourteen resulted in the complaint not being upheld and in one case the complaint was partly upheld. Of those cases where complaints were upheld, six addressed a breach of section 10 – time for compliance with request. Two cases were from 2005, three from 2010 and one from 2012.
32. Whilst the Commissioner takes the issue of compliance with the FOIA very seriously, he is not persuaded that the numbers in question constitute the suggested habitual breach of the FOIA by GMP.

## 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: 0116 249 4253

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

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

**Alexander Ganotis**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
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