

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 August 2015

Public Authority: Chief Constable of Avon and Somerset
Constabulary

Address: Force Headquarters
PO Box 37
Valley Road
Portishead
Bristol
BS20 8QJ

Decision (including any steps ordered)

1. The complainant made a series of requests for information over a short period of time to Avon and Somerset Constabulary ("the Constabulary") about its injury on duty ("IOD") award review. The Constabulary considered that all the requests were vexatious and relied on section 14(1) of the FOIA to refuse to comply with them. The Commissioner's decision is that the Constabulary was entitled to refuse to respond to the requests using section 14(1) of the FOIA.
2. The Commissioner does not require the Constabulary to take any steps.

Background

3. Where a police officer has to leave the police service because of injuries sustained on duty they may be offered an IOD pension and an additional award to compensate them for any potential loss of future earnings. The award is calculated on a case by case basis and comprises a gratuity and a monthly payment. The gratuity is banded on a scale of one to four, with four being the highest. The award was originally funded centrally by the Home Office, but is now funded from the budget of each police force.

4. Both the pension and the award are paid for life, but the Police (Injury Benefit) Regulations 2006 ("PIBR") make provision for a review of the award by the police force concerned to ensure that the correct banding still applies over the life of the award, which can cover many years. Where significant changes have taken place which affect an individual's potential earnings, the banding may be increased or decreased as appropriate.
5. In 2014, following the publication of new Home Office guidance on the issue, the Constabulary took a decision to conduct a pilot review of the IOD awards it paid to 16 former officers. It was the first police force in England and Wales to do so. The decision has proved controversial among the former officers. The Constabulary says that awards may be increased as well as decreased, according to individual circumstances. However, many former officers are concerned that they will only be disadvantaged by the review.

Request and response

6. Between 8 - 10 February 2015, the complainant submitted six requests for information to the Constabulary via the What Do They Know Website¹ ("WDTK"), a website for submitting and archiving FOIA requests. The requests are reproduced at annex A to this decision notice.
7. On 25 February 2015, the Constabulary issued a single refusal notice in respect of all of the requests on the grounds that they were vexatious within the meaning of section 14(1) of the FOIA. It explained that its resources were being placed under significant and unjustified strain by the number of requests it had received from the complainant and others relating to its IOD review.
8. On 17 March 2015 the complainant wrote to the Constabulary via WDTK stating that he had not received a response to the requests and asking it to conduct an internal review. The Constabulary responded the same day. It referred him to the refusal notice dated 25 February 2015 and asked him whether he still wished an internal review to be carried out in light of its contents. The complainant did not respond.

¹ <https://www.whatdotheyknow.com/>

Scope of the case

9. The complainant contacted the Commissioner on 28 April 2015 to complain about the Constabulary's decision to designate his requests for information as vexatious. He expressed the view that the Constabulary was routinely designating any requests for information relating to its IOD award review as vexatious within the meaning of section 14(1), to impede scrutiny of the review process. He also said that it was ignoring his requests for internal reviews.
10. The complainant does not appear to have engaged with the Constabulary over the question of the internal reviews and therefore he does not appear to have exhausted its complaints mechanism, as set out under section 50(2)(a). However, having had regard to the wider background to the case (and in particular the fact that the Constabulary would have been highly unlikely to have altered its position at internal review) the Information Commissioner has exercised his discretion and accepted the complaint for investigation without requiring that the internal reviews be completed.
11. Since the Commissioner is being asked to consider the designation of multiple requests as vexatious by reference to other requests, he considers that the appropriate time to determine whether the requests are vexatious is the date of the refusal notice, which was issued within 20 working days of receipt of the requests. This means he has assessed the situation as it was on 25 February 2015, and has done so in respect of the full number of requests received by the Constabulary at that time.
12. The focus of this notice is on the Constabulary's application of section 14(1) to the requests.

Reasons for decision

Section 14(1)

13. Section 14(1) of the FOIA states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.
14. The FOIA does not define the term vexatious, but it was discussed before the Upper Tribunal in the case of *Information Commissioner vs*

Devon County Council & Dransfield [2012] UKUT 440 (AAC), (28 January 2013)².

15. In that case the Upper Tribunal defined a vexatious request as one that is a "*manifestly unjustified, inappropriate or improper use of a formal procedure*". The Tribunal made clear that the decision of whether a request is vexatious must be based on the circumstances surrounding the request.
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) the harassment of, or distress to, staff.
17. The Upper Tribunal cautioned 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 request.*" (paragraph 45).
18. 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.
19. The Commissioner has also identified a number of "indicators" which may be useful in identifying vexatious requests. These are set out in his published guidance on vexatious requests³. 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

² <http://www.osspsc.gov.uk/Aspx/view.aspx?id=3680>

³

http://ico.org.uk/~media/documents/library/Freedom_of_Information/Detail ed_specialist_guides/dealing-with-vexatious-requests.ashx

considered in reaching a judgement as to whether a request is vexatious.

20. The Commissioner recognises that there is nothing in the FOIA which prevents the aggregation of requests from disparate sources for the purposes of section 14.
21. The Constabulary considered this request with a number of other requests which it argued were made by individuals acting in concert. In reviewing its arguments the Commissioner has also noted the approach taken by the Information Tribunal when reviewing a number of decision notices involving Walberswick Parish Council⁴. In these cases the Tribunal accepted that a number of applicants were acting together in pursuance of a campaign, and that this was a relevant consideration as to whether the requests were vexatious.
22. Section 14 of the FOIA does not specifically contain a provision that if two or more requests are made "*by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign*" then the requests may be considered together. The Commissioner must therefore assess the degree to which it can be said that the complainant and other requesters are acting in concert, before going on to consider whether it is reasonable for the Constabulary to refuse the complainant's requests on this basis.

Evidence from the parties

The complainant's view

23. The complainant states that he is a former police officer currently in receipt of an IOD pension. He considers the Constabulary's IOD review to be "*at best tainted and flawed, at worst unlawful and criminal*". He

⁴ http://www.informationtribunal.gov.uk/DBFiles/Decision/i1092/EA-2013-0080_02-10-2013.pdf

[http://www.informationtribunal.gov.uk/DBFiles/Decision/i1113/MacCarthy,%20John%20EA.2013.0079%20\(31.10.13\).pdf](http://www.informationtribunal.gov.uk/DBFiles/Decision/i1113/MacCarthy,%20John%20EA.2013.0079%20(31.10.13).pdf)

[http://www.informationtribunal.gov.uk/DBFiles/Decision/i1060/Harvey,%20Stephanie%20EA.2013.0022%20\(07.08.13\).pdf](http://www.informationtribunal.gov.uk/DBFiles/Decision/i1060/Harvey,%20Stephanie%20EA.2013.0022%20(07.08.13).pdf)

objected to his request being designated vexatious, saying he had been courteous and polite in his requests.

24. The Commissioner invited the complainant to submit further information in support of his complaint. Specifically, he asked the complainant to provide information which would demonstrate the serious purpose and value of the requests. The complainant did not respond.

Avon and Somerset Constabulary's view

25. The Constabulary set out the wider context in which the complainant's requests were received. In the wake of new Home Office guidance, in 2014 the Constabulary decided to conduct a pilot review of IOD awards made to 16 former officers. It provided full details of the review process to each of the former officers and ensured they had direct contact with the HR department, so that they could raise any individual concerns they had. It also published a substantial amount of information relating to the reviews: the information sent to reviewees, the questionnaire to be completed by reviewees, and correspondence between the Constabulary and the National Association of Retired Police Officers, the Crime Commissioner and Damian Green MP. Once the 16 reviews have been completed it said that it intends to publish further relevant documentation.
26. It was the Constabulary's view that the volume, timing, frequency, wording and nature of the requests submitted by 38 individuals (the complainant being one) suggested they were acting in concert against the Constabulary in pursuance of a common aim. The cumulative effect of the requests was designed to cause disruption with the intent that the Constabulary's FOIA team should face overwhelming difficulties complying with its legislative requirements towards other service users. It also considered that requests were being submitted as part of a large scale "fishing expedition" for information which could be used against it. It believed that the principle aim of the disruption and the fishing expedition was to pressure the Constabulary to abandon the IOD award review.
27. The Constabulary commented that taken individually, the majority of the requests would not be deemed vexatious. Rather, it was the cumulative effect of a concerted campaign that rendered individual component requests, vexatious. The Constabulary referred to the Commissioner's guidance on this point:

"A request which would not normally be regarded as vexatious in isolation may assume that quality once considered in context. An example of this would be where an individual is placing a significant strain on an authority's resources by submitting a long and frequent

*series of requests, and the most recent request, although not obviously vexatious in itself, is contributing to that aggregated burden*⁵

28. The complainant (whose name the Constabulary did not recognise and who it said was not in receipt of one of its IOD pensions) had submitted six requests for information via the WDTK website between 8 - 10 February 2015. The requests covered a range of topics; only two asked for information directly related to the IOD award review. Furthermore, in the period 24 January – 16 March 2015 the complainant had submitted a total of 21 requests for information. Only four of those could be described as being directly related to the IOD review.
29. The Constabulary stated that the requests amounted to a fishing expedition. The complainant was utilising the FOIA in a persistent, unfocussed manner due to a general belief that the review process was unlawful and a cost cutting exercise and his requests were searching for information which might prove that misconception. When considered in the context of the other requesters' requests, compliance with the complainant's request became unduly burdensome.

Evidence of complainant acting in concert with others

30. The Constabulary drew the Commissioner's attention to evidence that the complainant and the other requesters were known to each other online. It referred the Commissioner to the IOD Pensioners' Association ("IODPA") website⁶ which had recently been created to represent the interests of former officers from different constabularies who have been injured on duty.
31. It said there was a clear link between the website and the FOIA requests, as information disclosed by the Constabulary in response to earlier FOIA requests had been placed on the website and openly commented on.

⁵ <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf> paragraph 56

⁶ <http://iodpa.org/>

32. It also provided to the Commissioner with links to discussions on the IODPA Facebook page⁷ in which discontent with the Constabulary's review was openly voiced. Posts on the page encouraged former officers to submit FOIA and subject access requests to the Constabulary, and the Constabulary's responses were discussed. When someone commented on or "liked" a post their name was visible and the Constabulary noted that the names of many individuals who had submitted requests to it in connection with the IOD review, appeared on the Facebook page.
33. However, it conceded that it could find no evidence that the complainant had viewed the Facebook page; it could locate no instances where he had "liked" or commented on posts.
34. Nevertheless, given the similarity of some of his requests to those submitted by individuals whose names do appear on the IODPA Facebook page, and the timescale in which they were submitted, it considered it reasonable to conclude that the complainant and the other individuals were aware of each other's interactions with the Constabulary over the IOD reviews. It commented that the complainant was not otherwise known to it and suggested that he may be using a pseudonym, either to make his request, or when using Facebook.
35. The Constabulary noted that it was a feature of the requests that most were made through the WDTK website. The Constabulary argued that given the volume of requests it was receiving, and based on its wider experience of receiving FOIA requests, it would have expected more variety in the medium by which requests were submitted, and that the majority of requests would be submitted from personal email accounts, if requests were not being coordinated in some way.
36. It also noted that the wording and the focus of some of the complainant's FOIA requests were very similar to those received from other individuals. The request for information about the Constabulary's FOIA functions (annex A, request 2) was of no apparent relevance to the IOD review, but similar requests were made by other requesters at around the same time. Requests for correspondence from named individuals involved in the review (annex A, request 2 and 3) were also a feature of the wider requests it had received, which it said suggested a coordinated approach between requesters. A very specific question

⁷ <https://www.facebook.com/pages/IODpaorg/421461824680086>

about the wording on the review questionnaire was asked by the complainant and by two other requesters (although the request did not feature in the complaint he submitted to the Commissioner).

37. The Constabulary explained that it had initially tried to accommodate the requesters by dealing with their requests (it had dealt with the complainant's first four requests) and, wherever appropriate, information had been disclosed. However, it had become aware of a clear pattern whereby when information was disclosed, the disclosure generated a further request from the requester. It was a feature of this cluster of requests that the further request did not appear to grow from or build on the information disclosed in response to the previous request (although requesters would sometimes build their requests around disclosures made to other requesters).
38. The Constabulary was concerned that there was potentially no end point to the requests. No matter how much information was disclosed to the group of requesters, further questions were submitted, almost regardless of the content of previous disclosures. Each answer generated another request, using similar wording to other requests already received, and frequently of peripheral or no relevance to the issue of IOD reviews.
39. The Constabulary believed this to be a deliberate and coordinated tactic by a group of people trying to disrupt and overwhelm its FOIA service provision, rather than representing a genuine desire for the information requested.
40. The Constabulary said that it would not have expected the review of awards paid to just 16 former officers to generate such a large number of requests for information. It cited the large number of requests it had received as evidence that a wider campaign had been orchestrated. It referred the Commissioner to a similar review it conducted during 2005/06, which generated only a handful of FOIA requests, many of which were forwarded to it via elected representatives. It said that while it understood that police pensioners from other forces may have an interest in what the Constabulary was doing, information would be of limited relevance as its review process would not be applied to them. Each police force was expected to put in place its own processes and procedures for conducting its own review.
41. The Constabulary had noted a distinct reduction in the number of requests received once it started to designate requests for information as vexatious, and considered this to be further evidence of people acting together and sharing information about the responses they were receiving.

Impact of the requests on the Constabulary

42. The Constabulary received the first FOIA request about the IOD reviews in June 2014. As of May 2015 it had received 207 FOIA requests which it thought were connected to the reviews in some way (although not all actually asked for information about them) comprising 547 questions.
43. The majority of the requests (161) had been received between January 2015 and June 2015. In February 2015, the Constabulary calculated that requests for information relating to the IOD award review amounted to 49% of all requests received. It also calculated that it was experiencing a 44% increase on requests compared with the same time the previous year. It stated that overall, during the previous 12 months it received the second highest number of FOIA requests for a police force in England and Wales, with only the Metropolitan Police receiving more.
44. It explained that its FOIA team comprises three full time equivalent posts. The role of the team is to process any FOIA requests received by the Constabulary, from receipt to response. The FOIA team engages with the relevant business leads across the Constabulary to obtain the information requested.
45. The FOIA team was overwhelmed by the number of requests it received to the extent that it had to enlist the help of colleagues in other departments to simply keep up the logging process. Overtime had to be authorised to catch up on the publication log. The volume of requests distorted the ability of the FOIA team to process other FOIA requests not connected with the IOD award review within the statutory time limits.
46. The Constabulary said that other business areas were also seriously affected by the influx of requests. Its Occupational Health Unit, which delivers care, treatment and support to employees, had to divert 30 man hours per week to dealing with the requests that related to it. This directly impacted on the delivery of its core services; appointments were not made and follow ups were not taking place. This was a matter of considerable concern to the Force Medical Officer. The Constabulary also noted that the Human Resources unit was adversely affected, with overtime having to be commissioned just to catch up on core work.

The Commissioner's decision

47. The Commissioner acknowledges that at the time it originally considered the complainant's requests the Constabulary was experiencing exceptionally high numbers of FOIA requests, and that this was highly problematic for it.

48. As stated in paragraph 22, the matter for the Commissioner to determine is the degree to which it can be said that the complainant and other requesters are acting in concert. If he is satisfied that they are, he must consider whether it is reasonable for the Constabulary to refuse the complainant's request on this basis.
49. In addressing the first point the Commissioner has looked at the IODPA website. IODPA appears to have been established in February 2015; there are no website posts which pre date February 2015, and the first IODPA Facebook post is dated 7 February 2015. The Commissioner notes that IODPA was set up to help former police officers who have been injured while on duty, to network and to support each other in the wake of proposed changes to their pensions and awards. It describes itself as having a campaigning remit, albeit it is not clear how formally established the association is.
50. The Facebook page can be "liked" by anyone with a Facebook account. Posts of relevance to IODPA are made daily by the page owner and anyone can comment on them, whether they have "liked" the page or not.
51. The Constabulary's award review is discussed frequently on the IODPA Facebook page. Several posts appear to be a call to action for its former officers. For example, a post, dated 11 May 2015 (since deleted) actively encouraged people to make subject access requests to the Constabulary. It included a link to the Commissioner's website giving more information about subject access requests.
52. The requests under consideration here were submitted to the Constabulary between 8 - 10 February 2015. The first post on the Facebook page was dated 7 February 2015. The Commissioner considers it possible that when the Facebook page was created, its inaugural posts encouraged interested parties to submit FOIA requests to the Constabulary. His reason for considering this plausible is that he received five complaints about 51 requests which were submitted to the Constabulary in the first 10 days of February 2015 (14 alone were submitted on 9 February 2015, the date of two of the complainant's requests). Prior to that his records show that he had only received one complaint about the Constabulary in 2015 which related to the IOD issue despite the fact the review had been underway for more than six months. This suggests a link between the setting up of the Facebook page and the spike of requests to the Constabulary.
53. The Commissioner acknowledges that the Facebook page contains no posts from early February which show that it was used in this way. However, as stated in paragraph 51, above, a post which encouraged individuals to make subject access requests to the Constabulary appears

to have been deleted (the Commissioner was able to take a screen shot of it before it was deleted), and so it is entirely possible that similar posts from February have since been deleted by the page owner.

54. When someone comments on or "likes" a post, their name is visible. The Commissioner notes that the names of requesters who the Constabulary suspects are acting in concert regularly appear, suggesting that they frequently visit the page. However, he has been unable to find the complainant's name among them. There is therefore no independent evidence that the complainant is aware of or has viewed the IODPA Facebook page.
55. The Commissioner has therefore looked at the other evidence offered by the Constabulary to assess whether it suggests that the complainant might be acting in concert with others.
56. He notes the Constabulary's points about the similarity of requests. The subjects of the complainant's requests are remarkably similar to the subjects of the requests submitted by other requesters, who, because of the "likes" and comments they have left, can be proven to have viewed the IODPA Facebook page.
57. For example, the complainant asked for information about the FOIA Officers qualifications (Annex A request 2). Requests about the Constabulary's FOIA arrangements (specifically, the qualifications of the FOIA Officer and the FOIA Team's compliance with statutory time limits) feature among the requests made by three other requesters the Commissioner has received complaints from, each of whom has commented on or "liked" the Facebook page. The Constabulary's FOIA arrangements are ostensibly nothing to do with its IOD review, and so the Commissioner would not expect to find requests about them in the context of requests for information about the review. However, information about the Constabulary's FOIA arrangements may be pertinent to someone with a desire to disrupt those arrangements, which is what the Constabulary alleges is one of the purposes of the requests.
58. The complainant also requested information about appliances tested under the Electricity at Work Regulations 1989. As above, there is no obvious link between this information and the IOD award reviews. However, the same information was requested by another individual, on the same day. The Commissioner notes that this other requester has commented on and liked posts on the IODPA Facebook page.
59. As noted in paragraph 36, while it did not form part of the complaint submitted to the Commissioner, the WDTK website shows that the complainant had submitted a very specific request about the IOD

questionnaire, a request which was also submitted by two other requesters at around the same time.

60. The complainant reveals specific knowledge of the review process despite apparently not being subject to it himself (the Constabulary having denied that anyone of his name was in receipt of one of its IOD awards). Requests 1 and 3 (Annex A) appear to build on information which has previously been disclosed by the Constabulary, as a reference point for the complainant's new requests. He also addresses the costs of the Police and Crime Commissioner ("the PCC") in one request. Again, on the surface the PCC has no connection with the IOD review. However, many former officers feel aggrieved at remarks the PCC allegedly made about their IOD pensions, and requests for information about costs incurred by her are a feature of many requests from a wider group of requesters.
61. The Commissioner notes that seven of the complainant's requests ask for details of expenditure involved in the delivery of core services. The requests are quite specific (for example, dog food; costs of mobile phone insurance) and would be time consuming to fulfil. On the face of it these are not of relevance to the IOD review, and it is difficult to see how the information, if disclosed, would further the complainant's stated concerns that the reviews were unlawful and criminal. However, many requesters view the IOD reviews through a lens of profligate spending by the Constabulary.
62. As stated in paragraph 24, although invited to do so, the complainant did not supply any further information which would allow the Commissioner to assess the purpose and value of his requests. The Commissioner has therefore considered the purpose and value of the requests without input from the complainant.
63. Based on the information provided by the Constabulary, the complainant's requests and the Commissioner's experience of dealing with complaints about the Constabulary from the other requesters, the Commissioner accepts that it is reasonable for the complainant to be considered to have been acting in concert with the other requesters. He considers that the dates and content of the complainant's requests, when compared with those submitted by other requesters, and the use of WDTK to submit requests, meant that each would have been aware of the nature and volume of the other's requests and the impact they were having on the Constabulary. Knowledge of this will have informed and guided the complainant's individual requesting pattern. This had the result that he was acting in concert with others in either a deliberately coordinated manner, or as a result of having been influenced by the online information that he is known to have been party to.

64. The Commissioner has therefore gone on to consider the Constabulary's arguments in support of its application of section 14(1) on the basis that the complainant was acting in concert with others when he made his request.
65. The Constabulary's application of section 14 rests principally on the burden to it of complying with the requests.

Would compliance with the request create a significant burden in terms of expense and distraction

66. The Constabulary has concentrated the weight of its argument on the significant burden it believes has been imposed on it by the cumulative effect of the requests. The Commissioner's aforementioned guidance states that when considering any burden imposed in complying with a request, consideration will need to be given not only to the cost of compliance, but also whether staff would be diverted or distracted from their usual work.
67. The Constabulary has explained that its FOIA Team has had its contracted hours of work monopolised by responding to freedom of information requests from these individuals. This led to a reduction in its service provision to other users and created additional costs in the form of overtime to enable the team to catch up. Other departments experienced a similar impact on their core service delivery.
68. The Commissioner does not doubt that compliance with the requests would impose a significant burden and the monopolising of the Constabulary's available resources and that in some cases this will have adversely impacted on the level of service extended to FOIA requesters not connected to the award review, as well as those in receipt of other core services.
69. The Commissioner thinks it unrealistic that a public authority could be expected to anticipate and budget for an increase to its FOIA workload of nearly 50% over such a short space of time.
70. Although broad and unfocussed, it is doubtful that, when considered on its own, compliance with the complainant's request would cause a substantial burden. However, when viewed as part of a wider, concerted attempt by several individuals to put pressure on the Constabulary by means of the FOIA, the balance shifts to finding this factor engaged.
71. The Commissioner has noted a pattern of behaviour regarding the use of the FOIA in respect of the Constabulary that supports its view that a group exists that is aware of each other's requests and has harnessed that knowledge to both double check (through multiple submission of the same request) and undermine the Constabulary's compliance with

the FOIA. The Commissioner has received a significant number of complaints from some of the people the Constabulary believes are acting in concert, in a relatively short space of time.

Motive of the requester and purpose and value of the requests

72. The Constabulary initially tried to comply with the large number of requests it was receiving. However, it stated that increasingly requests were resulting in more requests being received. The Constabulary considers that many of these requests were designed to cause annoyance and disruption, because despite its attempts to satisfy them, the Constabulary was then sent further requests. It considers that increasingly, the purpose of most requests was to derail and disrupt its FOIA service provision, rather than to obtain information.
73. The Commissioner has some sympathy for this argument, noting that some of the requests it received asked specific questions about its FOIA functions, suggesting there was a particular interest in monitoring that area.
74. The complainant says that he is a former officer with an IOD pension under review. If so, the Commissioner accepts that the complainant has a legitimate interest in the Constabulary's IOD award review. Against this, he balances the Constabulary's statement that it does not recognise his name and that he therefore must be a pensioner of another Constabulary. If so, it cannot be argued that the complainant will be directly affected by its review, because the PIBR require each police force to devise its own procedures for assessing IOD awards.
75. When the complainant's requests are considered in the context of acting in concert with the other requesters, his legitimate interest in the IOD award review sits to one side of the requests he has made. His requests are fairly broad and unfocussed, with only a few relating directly to the IOD reviews. Most of his requests appear to be an attempt to "dig" for wider information which might be of use in pursuing his grievance against the Constabulary. Whilst this might, in some circumstances, be a legitimate end in itself, when considered in the context of the volume of requests submitted by other requesters, the Commissioner concludes that this does undermine the value of his requests.

Conclusion

76. The Commissioner accepts the Constabulary's argument that its reason for refusing the complainant's requests as "vexatious" is based largely on the significant burden it imposes in terms of expense and distraction, when considered as a part of a wider and ongoing action by a group of requesters acting in concert. The Constabulary argues that the

complainant has not only made a series of requests for information which would appear to have little benefit to the wider public if disclosed, but that this appears to be part of a concerted action with other people.

77. The Commissioner notes the concerns expressed to him by the complainant that the Constabulary's actions are unlawful. The Commissioner is not in a position to judge these claims, nor is it within his remit to do so. He is mindful of the Tribunal's definition of vexatious as the "*unjustified, inappropriate or improper use of a formal procedure*". If a clear legal route exists for the complainant and other interested parties to pursue their concerns that the review is unlawful, submitting requests in such quantities that they disable the Constabulary's FOIA response mechanism would appear to chime with that definition.
78. The Commissioner is mindful that the Upper Tribunal has determined that the purpose of section 14 must be to protect the resources (in the broadest sense of that word) of the public authority from being squandered on disproportionate use of FOIA. In this case, the action that has been taken by the complainant and other individuals and the associated burden being imposed on the Constabulary is disproportionate to whatever objective the complainant is trying to achieve and thus section 14 is engaged.

Other Matters

79. The Constabulary has suggested that the name used by the complainant might be a pseudonym. The Commissioner has not examined this suggestion as part of his investigation because the Constabulary did not seek to challenge the validity of the requests on that basis.
80. However, the Commissioner's approach to pseudonymous requests is outlined in his guidance on recognising requests for information⁸.
81. To summarise, section 8(1) of the FOIA sets out that to be valid, a request must contain, amongst other things, the name of the requester. The Commissioner has interpreted this as meaning that a request which

⁸ <https://ico.org.uk/media/for-organisations/documents/1164/recognising-a-request-made-under-the-foia.pdf> paragraph 14 onwards

is submitted under a pseudonym will be invalid under the FOIA. This means that someone who uses a pseudonym when making a request cannot enforce the rights provided by the FOIA in respect of that request.

82. Requesters should therefore always submit their requests using their real names.

Right of appeal

83. 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@hmcts.gsi.gov.uk

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

84. 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.
85. 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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