

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 9 December 2021

**Public Authority:** Chief Constable of Staffordshire Police  
**Address:** Police Headquarters  
Weston Road  
Stafford  
ST18 0YY

### Decision (including any steps ordered)

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1. The complainant has requested from Staffordshire Police, meta data in respect of previous, related information requests. Staffordshire Police refused to provide the requested information, finding that the request was vexatious under section 14 (Vexatious and repeated requests) of the FOIA.
2. The Commissioner's decision is that the request is not vexatious.
3. The Commissioner requires Staffordshire Police to take the following steps to ensure compliance with the legislation:
  - issue a fresh response to the request under the FOIA, without relying on section 14.
4. Staffordshire Police must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Background

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5. This request relates to an information request which the complainant, who is a journalist, originally submitted to all police forces on 27 August 2020 as follows:

*"Please provide a copy of all problem profile assessments produced or commissioned by your police force related to child sexual exploitation in your force area from January 1st 2010 to date".*

6. This met with a variety of responses from the forces and the Commissioner has dealt with, and is currently still dealing with, a number of related complaints.
7. In respect of that request, the Commissioner issued a decision notice<sup>1</sup> in which it was found that Staffordshire Police was entitled to rely on the cost limit at section 12 of the FOIA to refuse to deal with it. The complainant has since significantly reduced the scope of his request and the Commissioner is currently dealing with a related complaint against Staffordshire Police in respect of that reduced request - which is for a single problem profile.
8. Most of the other related complaints have now been informally resolved with the forces making disclosures of redacted profiles to the complainant's satisfaction; these have had sensitive information removed.

## Request and response

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9. Following earlier, related correspondence, on 11 August 2021 the complainant wrote to Staffordshire Police and requested information in the following terms:

*"Please provide a copy of all internal correspondence relating to the handling of my requests for copies of force problem profiles.*

*This should include all email and work instant messaging correspondence (such as Slack and Teams instant messaging correspondence and threads) sent and received by the:*

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<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notice/2021/2620306/ico-65630-d8c4.pdf>

- Staffordshire Police FOI and information management team
- Staffordshire Police press office
- The Chief Constable's office

*From 1<sup>st</sup> August 2020 to the present date”.*

10. Staffordshire Police responded on 13 August 2021. It refused to provide the requested information and advised the complainant that his request was vexatious under section 14(1) of the FOIA.
11. Following an internal review, Staffordshire Police wrote to the complainant on 16 August 2021, maintaining its position.

### **Scope of the case**

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12. The complainant contacted the Commissioner on 19 August 2021, to complain about the way his request for information had been handled.
13. The Commissioner will consider whether or not the request is vexatious below.

### **Reasons for decision**

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#### **Section 14(1) – Vexatious request**

14. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
15. However, 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.
16. The term vexatious is not defined in the FOIA. The Upper Tribunal considered the issue of vexatious requests in the case of the *Information Commissioner v Devon CC & Dransfield*<sup>2</sup>. The Tribunal commented that ‘vexatious’ could be defined as being the “*manifestly unjustified, inappropriate or improper use of a formal procedure*”. The Tribunal’s

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

definition establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.

17. Dransfield also considered 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.
18. It explained that these considerations were not meant to be exhaustive and also explained 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).
19. The Commissioner has published guidance on dealing with vexatious requests<sup>3</sup> which includes a number of indicators that may signify that a request is vexatious. However, even if a request contains one or more of these indicators it 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.
20. When considering the application of section 14(1), a public authority can consider the context of the request and the history of its relationship with the requester. As the guidance explains: *"The context and history in which a request is made will often be a major factor in determining whether the request is vexatious, and the public authority will need to consider the wider circumstances surrounding the request before making a decision as to whether section 14(1) applies"*.
21. However, the Commissioner would stress that, in every case, it must be the request itself that is shown to be vexatious and not the person making it.

#### *Complainant's position*

35. The complainant denied the request was vexatious, saying that there was a public interest in Staffordshire Police disclosing the information he had

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<sup>3</sup> <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

requested. He outlined his position to the Commissioner and explained this as follows.

22. The Commissioner had previously issued a decision notice in respect of an earlier request he made in August 2020 (see above). That decision notice found that, due to a poorly structured IT system, retrieving the requested information would breach the cost limit at section 12 of the FOIA; the decision notice concluded that the force had been entitled to rely on section 12 to refuse the original request.
23. As a result of that decision, the complainant had significantly reduced the scope of his request, ultimately requiring only a single document – the most recent one available. This was again refused on cost grounds. (The Commissioner is currently considering a separate complaint regarding that outcome.)
24. Further to Staffordshire Police's determination about that latter request, the complainant was concerned that adequate searches may not have been conducted by the force, so he made a 'meta request' for all internal processing records in relation to his related requests on this subject matter, to check that due process had been followed. He considered that this was a logical and reasonable process for him to pursue.
25. He further argued:

*"Meta requests are routine, and used by requestors to ensure that FOI processes have been followed in the handling of their requests by obtaining the internal records of how that request was handled within an organisation.*

*Many other authorities have provided responses to meta requests I have made without deeming them as vexatious. There is a clear serious purpose to this, as disclosure would either assure the public that a police force is meeting its obligations under FOIA, or if it has not, serve the public interest in holding it accountable for those shortcomings, in the hope of improving compliance in the future.*

*This is not a refusal to "accept the facts", as the department asserts in its response. I fully appreciate the retrieval issues that the force has experienced, and have amended my request accordingly to try and get around this issue. However, there remains substantive dispute around whether a reasonable search is being conducted in relation to my more narrowly framed request".*

26. The complainant further explained that he is a staff reporter at a major newspaper and that he specialises in the use of freedom of information requests to conduct public interest reporting. He added that he was fully

aware of how the FOIA operates and that he was: *"not making this request lightly or to waste police time as it is suggested but because I believe there is a serious purpose to disclosure"*.

27. As to the purpose behind his requests, he explained that:

*"The original purpose of this request was to gather documents assessing how police handled CSE offences, to see how things had changed since the Rotherham scandal ten years ago. The records disclosed by other forces revealed serious shortcomings, and contributed to a front page investigation on the topic"*.

28. The complainant also provide a full chronology of his dealings with Staffordshire Police regarding both his original request and the position as it stands now. This evidenced how he had tried to narrow and revise the wording of his request in an attempt to assist the force in locating what he required. The chronology of these requests were helpfully outlined by him as follows:

***"July 15<sup>th</sup>***

*Original decision notice IC-65630-D8C4 issued finding force could rely on section 12 to refuse original request covering ten years.*

***July 19<sup>th</sup>***

*First new more limited request made*

*Please provide a copy of the most recently issued force wide child sexual exploitation problem profile.*

*This should be a problem profile that includes CSE, "Child Sexual Exploitation" or similar in the title of the document, I do not require a search through reports not primarily related to CSE for material about CSE within them.*

*Acknowledged under 13454*

***August 4<sup>th</sup>***

*Initial refusal under section 12.*

***August 5<sup>th</sup>***

*Revised request*

*Thanks for your response, by way of an alternative approach, could you provide a copy of the most recently issued profile issued to*

*child protection officers? This should have been circulated by email, rather than being stored in the database from which it is not possible to search for records.*

*Acknowledged under 13516.*

*Query from force*

*Your Freedom of Information request is being dealt with but some clarification is required before it can be processed. Does this relate to a CSE Problem Profile Assessment?*

*My response*

*Yes, basically just the latest report that has actually been issued to staff. It should be possible to see what documents have been issued to officers from email correspondence and any working folders, without having to search through the folders which it appears to be impossible to extract anything.*

*Force response*

*Acknowledged, thank you.*

**August 11<sup>th</sup>**

*Force claims not to hold information.*

*My response*

*Can you please clarify what you mean by this? If you hold problem profiles, you have surely at some point issued them to your staff?*

*Response*

*We do hold them but the response was specific to what you were asking.*

*My response*

*Thanks for your response, however I would like to request an internal review.*

*It seems vanishingly unlikely that your force cannot provide a copy of the most recently issued problem profile report. It seems unlikely that a reasonable search has been conducted for this material. It seems impossible that the force holds copies of such reports, but*

*has never issued them to staff, given the examples of what other forces have provided.*

...

*I also filed a meta request and SAR [subject access request] (which the force responded no information was held) at this stage, due the level of obstruction I was now experiencing.*

*IR logged under 13528*

*Meta request logged under 13527*

**August 12<sup>th</sup>**

*IR response to 13528*

*"Upon review of your request for information, referenced above, and all corresponding communication made under the Freedom of Information provision. I am of the opinion that the response issued, alongside all clarification provided, fully answers the terms of your request."*

**August 13<sup>th</sup>**

*ICO Complaint submitted for IR request 13528*

*Response to meta request 13527 finding request vexatious.*

*IR appeal lodged on meta request 13527 on grounds that application of vexatious exemption was breach of FOIA.*

**August 16<sup>th</sup>**

*Confirmation of receipt of meta request IR under 13534.*

*IR completed on same day and refusal issued.*

*"Upon review of your request for information under the Freedom of Information provision, referenced above, and all corresponding communication. I am of the opinion that the response issued, alongside all clarification provided, fully answers the terms of your request."*

*I also confirm that the application of all exemptions outlined within this response are fully justified, and that the explanations and rationale for their application conveyed clearly and unequivocally."*



**August 19<sup>th</sup>**

*ICO complaint made over refusal to provide documents related to meta request 13534".*

29. He summed up his views saying:

*"... this meta request has a clearly serious, well defined and limited purpose. There is a legitimate motivation for this request (checking that my request was handled properly), and this information if disclosed the public interest [sic] of accountability of a police force's approach to transparency rules ... it is not for trivial information of little value".*

*Staffordshire Police's position*

30. In its initial refusal under section 14(1) of the FOIA, Staffordshire Police advised the complainant:

*"Staffordshire Police is treating this request as vexatious because you are continually bombarding and inundating the force with requests for information on the same subject. We consider that your persistence is unreasonable and has already placed a significant burden and strain on the force's resources in attempting to retrieve data requested by you on problem profile assessments. Even though an explanation has been provided you will not accept our responses and continue to bombard Staffordshire Police with similar requests".*

31. Staffordshire Police did not add any further rationale at internal review.

32. In response to the Commissioner's enquiries, Staffordshire Police advised as follows:

*"This applicant first requested all problem profiles relating to child sexual exploitation on 28/08/2020 requiring the information since 2010. It was explained to the applicant then that SP do not keep problem profiles in a format that is easy to extract the ones that relate to child sexual exploitation. This went to the ICO where our decision was upheld (as per IC-65630-D8C4). The applicant then persisted with repeating requests on the same topic (our ref 13368 22/06/2021, 13454 19/07/2021 and 13516 05/08/2021). Our position is not going to change, it would be burdensome for the organisation to locate the data requested (as explained in our responses to IC-65630-D8C4).*

*Just because other forces keep the data in a retrievable format does not mean that there is an obligation for SP to do so".*

33. It further advised that other forces had published responses to the original request saying that no information was held and also applying exemptions, although the relevance of this information in the context of this complaint is not clear. It referred to another force having found the original request itself to be vexatious.
34. It also told the Commissioner: *"There is no substance to the request for internal correspondence it is a level of persistence around the same topic"*.

#### *The Commissioner's position*

35. As mentioned above, the original request was a 'round robin' made by the complainant to all forces. Some of these requests resulted in complaints to his office, the majority of which have since been informally resolved with appropriately redacted disclosures. The Commissioner does accept the genuine public interest and valid purpose behind the original request.
36. The Commissioner asked the complainant about his other requests and whether any were refused as vexatious, as well as any other meta data requests he may have made. He confirmed that two forces had initially found his original request to be vexatious but that, following negotiation, this was revised and he was provided with relevant information (meaning that no complaint was received by the Commissioner). He explained:

*" ... [force name redacted] were pretty helpful in the end. They section 14'd me, but we negotiated and they provided the two most recent copies of their reports ... [Force name redacted] took the same approach, albeit much more quickly after the original request.*

*The only meta requests I made were to [force name redacted] and Staffs, due to my concerns about the manner in which the requests were being handled and the level of obstruction I felt I was experiencing. [Force name redacted] provided a substantive response to this ..."*

37. In the Commissioner's view, section 14(1) of the FOIA is designed to protect public authorities by allowing them to refuse requests which have the potential to impose a disproportionate or unjustified level of burden, disruption, irritation or distress. Balancing the impact of a request against its purpose and value can help to determine whether the effect on the public authority would be disproportionate.

*Was the request vexatious?*

38. It is for a public authorities to demonstrate to the Commissioner why the exemption at section 14 applies and the Commissioner considers there to be a high threshold for refusing a request under section 14(1). Staffordshire Police has essentially argued that the request is vexatious because it has been "bombarded" and "inundated" with requests by the complainant on the same subject matter and that there is no substance to the meta data request under consideration.
39. The Commissioner notes that the original request (see paragraph 5) was refused on grounds of cost, which was a position that was upheld by way of an investigation and decision notice. The complainant then made further attempts to reduce the volume of information requested (shown by the chronology he has provide above), which ultimately meant him requesting only the single, most recent, profile report held. To reach this point, the Commissioner considers that there has only been limited, targeted correspondence, and he does not share the view that the complainant's attempts were of the nature described, ie he is not "bombarding" Staffordshire Police with requests, rather he is trying to refine his request in order that it falls within the cost limit threshold.
40. Whilst it may be that the way that Staffordshire Police holds the type of information requested means that it is still unable to readily identify its most recent profile report (this position is currently being considered by the Commissioner in a separate complaint), that is a different matter to what is being considered here. The matter under consideration here does not strictly relate to the actual information being sought. The issue here is the complainant trying to ascertain what measures Staffordshire Police has undertaken to try and locate any of the information requested and, in the Commissioner's view, is him simply trying to understand why the force is unable to deal with his requests, despite his attempts to significantly reduce the scope. (Staffordshire is the only police force that has maintained this stance in respect of the requested information.)
41. It is further noted that the complainant made the same meta data request to one other force where he had some similar concerns about how it had handled his request. That resulted in a successful disclosure, albeit with some redactions.
42. Whilst the Commissioner acknowledges that Staffordshire Police has provided information to him which sets the request against a background of related requests it has received from the complainant, he does not consider that it has shown why this particular request is vexatious. It has not provided evidence that compliance with this request would have a detrimental impact on it. It has not suggested, or evidenced, that this request would require it to undertake extensive

searches. Nor has it explained why the inherent purpose or value of the request does not justify the detrimental impact that compliance with it would supposedly have.

43. The Commissioner cannot accept assertions that compliance with a request would have a detrimental impact which would be unjustified or disproportionate, without detailed supporting evidence.
44. Given the high evidential threshold for applying section 14, on balance, the Commissioner must conclude that the complainant is pursuing a genuine line of enquiry in this request. As previously stated, it is for public authorities to demonstrate to the Commissioner why the exemption at section 14 applies. In this case, while he accepts that compliance with the request would require Staffordshire Police to absorb some costs and effort, the Commissioner is not satisfied that it has demonstrated that the burden of compliance would be disproportionate to the value and purpose of the request, or that, in the circumstances, compliance would be unreasonable, or that the request is a "*manifestly unjustified, inappropriate or improper use of a formal procedure*".
45. The Commissioner therefore finds that the request in this case was not vexatious and that Staffordshire Police was not entitled to apply section 14(1) of the FOIA to refuse to comply with it. He now requires it to take the action set out in paragraph 3.

## Right of appeal

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46. 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)

47. 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.
48. 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** .....

**Carolyn Howes**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**