

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 May 2024

Public Authority: Chief Constable of Cumbria Constabulary

Address: Police Headquarters
Carleton Hall
Penrith
Cumbria
CA10 2AU

Decision (including any steps ordered)

1. The complainant requested information relating to internal training and policies. Cumbria Constabulary relied on section 14(1) of FOIA (vexatious) to refuse the request.
2. The Commissioner's decision is that the request was vexatious and therefore Cumbria Constabulary were entitled to rely upon section 14(1) of FOIA to refuse it.
3. The Commissioner has also decided that Cumbria Constabulary have breached sections 1(1)(a) and 10(1) of FOIA by not providing a response to the complainant's request within 20 working days.
4. The Commissioner does not require any steps.

Request and response

5. On 30 September 2023 the complainant made a request for information under FOIA in the following terms:

"With reference to the above Policy, I ask the following questions regarding the training of your new communications centre staff namely those who receive calls and/or deploy a police resource to incidents. This

includes the supervisors of such staff and the senior officer in charge of the comms centre:

1. What is documented regarding the above staff being informed that your chief constable has banned the failed Type A systems that lose their Unique Reference Number (URN) from contacting your police communications centre on initial activation? These have therefore joined the Type B alarms in no longer having a URN, namely those that refuse to abide by the policy. This matter of education is relevant to the correct application of the Codes of Ethics of Fairness, Honesty, Integrity, Accountability. These are essential requirements to the application of the Code of Ethics and the National Decision Model.
2. What is documented about the above staff being educated in the requirement of a Keyholder to firstly attend all premises without a URN as per your published policy, namely the premises with the Type B and Failed Type A activations are to be treated the same? (See sections 3.1.1. Level Three – Withdrawn, and 3.6.4.)
3. If there is no documentation to 3) above, what documentation is there to explain to the alarm purchasing public that clearly states the Type B and Withdrawn Type A can be treated differently, namely the Type B alarms can always be considered for attendance but the failed Type A's never can be, having been banned from contact by your chief constable?
4. What is documented about the training given to new communications centre staff on the application of the Health and Safety at Work Act to all sensor anomaly incidents, Type A (with a URN), Type B (without a URN) and the failed Type A (that have had their URN 'Withdrawn' or 'Deleted') as per the Appendix G form?
5. What is documented about any added training input which educates the above staff on the reason why your chief constable has added to the Appendix G the reason for the Civil Tort Legislation, namely The Occupiers Liability Act 1957, added as recent as April 2022? Your chief constable states, 'Police officers will not normally enter the premises without the keyholder. However, this may be necessary on occasions due to suspicious circumstances. To ensure the safety of officers, the force must be pre-warned of site risks, therefore you are required to state any site hazards in accordance with the Occupiers Liability Act 1957.'
6. What is documented where your constabulary ever disagrees with any part of the policy and asked for a policy amendment?

7. What documentation is there on any local procedure that your constabulary applies to drive forward the further applications for URNs by those businesses and dwellings that wish to protect their premises by a police attendance? This drive towards 100% of premises applying for URNs would increase the Health and Safety features of the policy by alarms of a minimum standard and requirements for premise staff to be trained in order to reduce false activations, with a maximum number of false applications, at which the police will act to ban further calls by removal of the URN and a ban on the call from the Alarm Receiving Centre. (These points are related to points 3 and 4 above.”
6. Cumbria Constabulary responded on 15 December 2023 and refused to provide the requested information citing section 14(1) of FOIA as their basis for doing so.
7. Following an internal review request on 2 January 2024 Cumbria Constabulary provided its internal review response on 3 January 2024. The reviewer upheld the original decision.

Reasons for decision

Section 14(1) – vexatious requests

8. The following analysis considers whether the request was vexatious.
9. 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.
10. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s updated guidance on section 14(1)¹ 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.
11. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is

¹ <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.

12. However, the ICO 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.
13. 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")². Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.
14. 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.
15. 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).
16. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. It 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).

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

Cumbria Constabulary's view

17. In its response of 15 December 2023 to the complainant's request, Cumbria Constabulary stated the following:-

"Whilst I acknowledge this is the first request you have made to the Constabulary recently, and the subject matter is such that the request could not reasonably be classed as being trivial in nature, the Constabulary has previously disclosed information to you in response to the same overall subject matter. The time required to locate and retrieve any information held by the Constabulary which is relevant to this request would place a further burden on the Constabulary, adding to the significant time and resources already spent dealing with the issues you have raised.

After taking into account the volume and nature of your previous correspondence on the same, or substantially similar, subject matter, I believe it is a reasonable assumption to make that your request appears to be a further attempt to continue a campaign which I understand has been ongoing for at least 5 years and which, as stated above, has already resulted in your concerns having been thoroughly investigated and addressed, including by external agencies independent of the Constabulary.

The Freedom of Information Act provides an important conduit which enables the public to access information which can be used to hold a public authority accountable for its decisions, but equally it is important it is not misused, and resources are not diverted from more important matters, solely to enable an applicant to reopen issues which have already been comprehensively dealt with, as I believe would be the case here."

The complainant's view

18. The complainant states that they are simply trying to gain answers and that they do not accept that their request would be burdensome to Cumbria Constabulary.

The Commissioner's decision

19. 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.
20. The Commissioner has considered the arguments above.

21. In accordance with his guidance, the Commissioner has taken a holistic and broad approach in this case. He has considered the history of the complainant's dealings with Cumbria Constabulary and their persistence in seeking information. The Commissioner is mindful that the request in this case, although not obviously vexatious in itself, was made in the context of a series of requests for similar types of information, to which the complainant has received comprehensive responses.
22. With respect to the value and purpose of this particular request, the complainant has asserted that it is not vexatious, as they are trying to get Cumbria Constabulary to be open and honest with the public regarding their approach to important policies and training. The Commissioner accepts this, however he is cognisant of the fact that the complainant has been making similar requests for five years, to which Cumbria Constabulary have provided full responses. To continuously request similar information imposes a burden upon Cumbria Constabulary's resources in order to respond to queries which, in their view, they have already answered.
23. Having considered the context and history of the request, and the nature of the information within the scope of the request, the Commissioner is satisfied that the request was vexatious by nature of the burden imposed. Therefore Cumbria Constabulary were entitled to rely on section 14(1) of FOIA to refuse the request.

Procedural matters

Section 1 – General right of access

Section 10 - Time for compliance

24. Section 1(1)(a) of FOIA states that a person who asks for information is entitled to be informed whether the information is held. If it is held, section 1(1)(b) states that the person is entitled to have that information communicated to them.
25. Section 10(1) of FOIA states that on receipt of a request for information, a public authority should respond within 20 working days.
26. In this case, Cumbria Constabulary did not respond to the complainant's request of 30 September 2023 until 15 December 2023. By failing to respond to the request within the statutory time for compliance, Cumbria Constabulary breached sections 1(1) and 10(1) of FOIA.

Right of appeal

27. 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

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

28. 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.
29. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Deirdre Collins
Senior Case Officer
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