

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 October 2015

Public Authority: Rothbury Parish Council

Address: rothburyparishcouncil@hotmail.com

Decision (including any steps ordered)

1. The complainant requested from Rothbury Parish Council (the Council) various information relating to complaint procedures, records management and a contract for gardening services. The Council refused the requests as vexatious under section 14(1) of the FOIA.
2. The Commissioner's decision is that the Council cited section 14(1) correctly and so it was not obliged to comply with the complainant's requests.

Request and response

3. On 14 and 21 April 2015 the complainant wrote to the Council and made a number of information requests. For the sake of brevity, those requests are not fully set out here, but broadly related to three subject matters: complaint procedures, records management and a contract for gardening services.
4. Further correspondence between the Council and the complainant followed, most notably an email from the Council to the complainant dated 27 April 2015, but a number of the complainant's requests were not adequately addressed.
5. As covered in more detail below, the Council responded to the complainant again on 14 July 2015 and stated that his requests were refused as vexatious under section 14(1) of the FOIA. It also stated that under section 17(6) of the FOIA it would not respond to any other requests on similar subject matter to the requests of 14 and 21 April 2015.

Scope of the case

6. The complainant contacted the Commissioner on 5 June 2015 to complain about the lack of response by the Council to many of the requests he had made on 14 and 21 April 2015. The Commissioner advised the Council on 10 July 2015 that it was obliged to respond to each of the complainant's requests, if necessary by citing grounds for non-disclosure.
7. The Council responded to the complainant on 14 July 2015 and stated that his requests were refused under section 14(1) of the FOIA. The complainant subsequently contacted the ICO and confirmed that he wished the Commissioner to consider whether the Council had cited section 14(1) correctly.

Reasons for decision

Section 14

8. The Council has cited section 14(1) of the FOIA, which provides that a public authority is not obliged to comply with a request that is vexatious. As covered in the Commissioner's published guidance¹ on this provision, 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.
9. The task for the Commissioner here is to decide whether the complainant's requests were vexatious according to that definition. In forming a conclusion on the citing of section 14(1), the Commissioner has taken into account the representations of the Council, as well as the evidence that is available to him.
10. The reasoning of the Council as to why the complainant's requests were vexatious was concerned with the number of requests made by the complainant to the Council, as well as his behaviour in his wider dealings with the Council. On the number of requests first, the Council stated that it received four emails containing multiple information requests

¹ <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

from the complainant on 14 April 2015, as well as further emails also containing information requests on 20 and 21 April 2015.

11. The Council added that the resources it could draw on to respond to the requests were limited. It stated that its annual income is £52,000 and that it employs a part-time clerk for 6.5 hours per week.
12. The Council also described its wider dealings with the complainant other than information requests, which it believed demonstrated unreasonable behaviour by the complainant. It stated that the complainant had contacted the Council many times in addition to the correspondence in which he made information requests with various complaints about the actions of the Council. The Council stated that the complainant had refused to accept correspondence sent to him by the Council by recorded delivery and had stated that he would contact the police if there was any attempt by the Council to hand-deliver correspondence as he would regard this as trespass on his property.
13. The Council also referred to the complainant's behaviour at Council meetings, stating that he attends these and films the proceedings. The Council added that the complainant has been warned about his behaviour at these meetings and that the complainant's behaviour at meetings had caused stress to Councillors and to other observers.
14. The Council furthermore referred to the complainant's attempts to make others aware of his issues with the Council public via social media and by raising his complaints with various authorities. According to the Council, none of those authorities found that it had a case to answer.
15. Turning to the view of the Commissioner, he notes from the evidence available to him that the complainant made a large number of individual information requests within the 14 and 21 April 2015 emails that are the focus of this case. The Commissioner also notes that the complainant and his representatives also made information requests to the Council other than those that are the subject of this case.
16. The Commissioner's view is that the volume of requests made by the complainant was in itself unreasonable behaviour on his part. The complainant would have been aware that the Council had very limited resources to devote to responding to his requests and should have taken into account that the number of his requests was likely to be overwhelming to those resources.
17. Whilst the Commissioner does not have evidence in support of the representations on the wider dealings between the Council and the complainant, he has taken into account the Council's representations that the complainant has acted unreasonably in his dealings with it. The

Commissioner is also of the view that complying with the information requests that are the subject of this notice is unlikely to provide any resolution or to result in a cessation of the complainant's unreasonable requesting and wider behaviour towards the Council.

18. Notwithstanding the above, the Commissioner has gone on to consider whether there is any overarching value to the requests that means that, despite their number and the context in which they were made, they should nonetheless be complied with. The complainant would argue that his requests are made with the aim of ensuring that the Council is acting appropriately. However, the Commissioner is not aware of any independent evidence that suggests that the Council has acted inappropriately. In any event, if that was the case there would be an appropriate mechanism for the complainant to pursue his concerns that would not involve harassing the Council with an excessive number of information requests.
19. Neither can the Commissioner discern any particular value to the requests from their wording. These appear to reflect the complainant's preoccupation with the minutiae of the work of the Council, rather than any issue of wider public interest.
20. Moving to the Commissioner's conclusion, his view is that the number of requests made by the complainant to a public authority of very limited resources meant that they did have the potential to cause disruption to that authority. As to whether that disruption would be disproportionate, the Commissioner has taken into account that he does not believe that these requests are either of particular value, or that complying with them would be likely to resolve the complainant's wider issue with the Council.
21. For these reasons, the conclusion of the Commissioner is that complying with the complainant's requests would result in a disproportionate and unjustified level of disruption to the Council. Those requests were, therefore, vexatious and so the Council was entitled to refuse them under section 14(1) of the FOIA.

Other matters

22. As mentioned above, the Council has notified the complainant that it will rely on section 17(6) and not reply to any future information requests that are related to his ongoing issues with the Council. The complainant should also be aware that asking others to make requests for him will not circumvent the reliance on section 14(1) as requests made on the behalf of the complainant, particularly for the same or similar

information to that specified in the requests covered in this notice, are likely to also be vexatious.

Right of appeal

23. 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: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

24. 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.
25. 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

Jon Manners
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