

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 May 2023

Public Authority: Birmingham City Council

Address: Council House
Victoria Square
Birmingham
B1 1BB

Decision (including any steps ordered)

1. The complainant has submitted an information request to Birmingham City Council ("the Council") relating to a funding application by the Friends of Georges Park.
2. The Commissioner's decision is that the request was vexatious and therefore the Council was entitled to rely on section 14(1) of FOIA to refuse it.
3. The Commissioner does not require further steps as a result of this decision notice.

Request and response

4. On 27 October 2022, the complainant wrote to the Council and requested information in the following terms:

“Under the provisions of the Freedom of Information Act, I would like copies of the following documents that were submitted to Birmingham City Council, by the Friends of Georges Park, as part of their funding application for The Birmingham Commonwealth Games Celebrating Communities Fund, in 2021

 1. The complete funding application including terms and conditions of the funding.
 2. Additional documents that had to be provided including bank accounts /managements accounts. Safeguarding statement / policies and procedures, Health and Safety policy / statement.
 3. Proof of expenditure including receipts and other documents.
 4. Copies of complete references and who were the referees.
 5. Were the funds given in one instalment or partial. I would like dates and the amounts of the funds being given.
 6. If the funds were given in instalments, were their [sic] conditions placed such as checks before the other instalments were released.”
5. A response was provided on 28 October 2022 in which the request was deemed vexatious under section 14(1) of FOIA.
6. Upon receiving this response, the complainant requested an internal review on 14 November 2022 and the Council provided its internal review response on 15 November 2022, in which it upheld its original response.

Reasons for decision

Section 14(1)-vexatious request

7. 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. There is no public interest test.

8. The term 'vexatious' is not defined in FOIA. The Commissioner's guidance¹ suggests that if a request is not patently vexatious, the key question the public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation, or distress.
9. FOIA gives individuals the right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
10. The Upper Tribunal considered in some detail the issue of vexatious requests in the case of the Information Commissioner v Devon CC & Dransfield². The Tribunal commented that vexatious could be defined as the "manifestly unjustified, inappropriate or improper use of a formal procedure."
11. 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.

The Complainant's view

12. The complainant has stated that they have been polite in their correspondence and has asked "simple questions."
13. Furthermore, the complainant states that they have no ulterior motives and that they have not burdened any staff members, nor are trying to disrupt the Council's services.

The Council's view

14. In its response, the Council informed the complainant that it had received 24 FOI requests since November 2020, 10 of which relate to parks and friends of Georges Park, and that it had received a "significant number of requests", from the complainant, since the Act began.

¹ [Dealing with vexatious requests \(section 14\) | ICO](#)

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

15. Of the 10 requests relating to parks/Friends of George's Park, the Council has explained that one request was still awaiting a response, one had been withdrawn, three requests had been refused as vexatious and in five of the cases the requested information, that the Council held, had been disclosed.
16. In highlighting burden, the Council explained that of these 10 requests, there were 32 questions, most of which were multi-part questions. The Council acknowledges that it may not seem like a large number in the scheme of the overall number of requests that it receives each year, however it is "a significant number to receive from a single applicant" and that Council's resources are being diverted from service delivery.
17. In examining motive, the Council states that it understands that the complainant has concerns but that the requests appear to stem from the complainant's "personal dissatisfaction with the Council or unfounded allegations of malfeasance".
18. Looking at the value and purpose of the request, the Council states that the requests are aimed primarily at disrupting service delivery more than achieving transparency and accountability.
19. In highlighting harassment and distress, the Council states that as each request leads to further requests, internal reviews, and complaints about delays, it has the effect of harassing staff in the Information Governance Team and in the services handling the requests.

The Commissioner's decision

20. The Commissioner is keen to stress that in every case, it is the request itself that is vexatious and not the person making it.
21. In reaching a decision in this case, the Commissioner has balanced the purpose and value of the request against the detrimental effect on the public authority.
22. As per the Commissioner's guidance on section 14(1) of FOIA, consideration of the background and history of the request can be taken into account. Therefore, the Commissioner is mindful that since April 2021, the complainant has submitted ten requests regarding parks/Friends of Georges Park.
23. The Commissioner acknowledges that the subject matter is of public interest and that public authorities must keep in mind their underlying commitment to transparency and openness. However, he also accepts that responding to this request would likely generate further related requests and correspondence, thereby placing extra burden on the resources of the Council.

24. In the circumstances of this case, and on the basis of the evidence provided, the Commissioner is satisfied that the Council was entitled to consider that the request was vexatious and therefore rely on section 14(1) of FOIA to refuse it.

Right of appeal

25. 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

26. 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.
27. 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

Joanna Marshall
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF