

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 13 June 2023

**Public Authority:** Halton Borough Council

**Address:** Municipal Building  
Kingsway  
Widnes  
Cheshire  
WA8 7QF

#### **Decision (including any steps ordered)**

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1. The complainant requested information from the Council relating to land adjacent to their property. The Council refused the request under section 14(1) of FOIA (vexatious requests).
2. The Commissioner's decision is that the request was vexatious and therefore the Council was entitled to rely upon section 14(1) of FOIA to refuse it.
3. The Commissioner does not require any steps.

#### **Request and response**

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4. On 1 March 2022 the complainant made the following request:

'I want to make a FOI request for the Search Documents provided for the sale of this property originally as well as the land dimensions and descriptions for the sale of [specified address]. For clarity it might be sensible to review who took control of the sale by auction and who formulated the list of prospective buyers. Who did the subdivision of the property and what records were made at the time not later'.

5. The Council responded on 22 April 2022 confirming that it held a number of files on the issues raised by the complainant. It stated that it had concentrated its search around 2000 when the sale took place and had examined the various relevant files. It stated that it had been unable to identify any search documents and, in respect of the sale process, the Open Day and the subdivision of the land, the Council stated that this had taken place 22 years ago, any officers involved would have now left.
6. In relation to the request for files held regarding the property sale and the boundary dispute the Council explained that it held a number of files that contained a considerable amount of documentation. Some of the information held on file relates to Counsel advice provided to the Council and information about third parties and adjacent properties. The Council stated that it would need to redact this information and in order to do this it would need to read all the files.
7. Given the broad nature of the request, the Council asked that the complainant considered narrowing their search and asked that, if there were any specific documents they required, to specify these and identify the information they required.
8. Following the response from the Council the complainant requested an internal review, to which the Council responded on 5 July 2022. It applied section 14(1) of FOIA to the complainant's request.

## **Scope of the case**

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9. The complainant contacted the Commissioner on 14 June 2022 to complain about the way their request for information had been handled. The Commissioner notes that the complainant had made a number of requests to the Council regarding the same issue, so the Commissioner took the decision to treat the request as outlined in paragraph 3 above as the 'lead request.' It is that request which is the subject of this notice.
10. This notice covers whether the Council correctly determined that the request was vexatious.

## **Reasons for decision**

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### **Section 14(1) – vexatious requests**

11. 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.
12. The word "vexatious" is not defined in FOIA. However, as the Commissioner's updated guidance on section 14(1)<sup>1</sup> 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.
13. FOIA gives individuals a greater 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.
14. 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.
15. 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*")<sup>2</sup>. Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.
16. *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.
17. 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

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

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

- any harassment or distress (of and to staff).
18. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. They 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).

### **The Council's view**

19. The Council states that it considers the complainant's request to be vexatious for a number of reasons. The central issue they raised with the Council is around the recent change in allocation to Council land. As such, the Council considers that the information held in relation to the land sale around 2000, and the subsequent boundary dispute in 2012, has no relevance to this issue. The Council does not believe that the search document will reference any details of the adjacent land and its sole purpose was to assist the complainant in the purchase of the specified property in 2000. Therefore, the Council considers that the information has no value to the purpose of the complainant's request and therefore searching for the document places a disproportionate burden on the Council.
20. The Council states that the complainant's correspondence in relation to their FOIA request relates to the status of the Council's land adjacent to the complainant's property. This has been the subject of an independent public Inquiry by the Planning Inspectorate in relation to the Delivery and Allocation Plan. The boundary dispute between the complainant and the Council was also subject to independent scrutiny in the court arena. Again, the Council does not believe the search document will have any bearing on the fundamental grievances held by the complainant in relation to the historic boundary dispute and the current status of the adjacent land.
21. The Council considers that the complainant is seeking to re-open matters that have been conclusively resolved by independent external bodies. Albeit, the Council does not consider the search document will contain any information that would change the decisions of the Courts or the Planning Inspector. Given that the matters about which the complainant is seeking information have been subject to independent scrutiny, the Council considers this places a burden on the Council to search for a record which will have no impact upon the main focus of the complaints and as such, no value in overturning those decisions.

### **The complainant's view**

22. The complainant considers that the Council should hold the information they are seeking and is of the view that this would assist them in their ongoing dispute regarding the specified land.

### **The Commissioner's decision**

23. 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.
24. The Commissioner has seen that the complainant has made a number of requests to the Council regarding the same issue. As the request was broad in nature, the Council requested that the complainant narrow or refine it, which was not done. The Council had explained to the complainant that its retention policy only specified that documents should be kept for 12 years, so given the age of the documents sought by the complainant, it is highly unlikely these are held by the Council. Despite being informed of this, the complainant has continued to request the documents.
25. With reference to the four themes as outlined in paragraph 16 above, the Commissioner has considered the views of both the Council and the complainant. The Council has made both the Commissioner and the complainant aware of the detailed history of the land and has stated that the complainant had every opportunity to raise their concerns as there was extensive public consultation and the complainant was part of a residents' group which submitted representations regarding plans for the land. The complainant has also stated that they hold the search document, however the Council has offered to review this for them but they have refused, continuing to insist that the Council holds the document.
26. The Commissioner is of the view that the Council's arguments in paragraphs 18-20 above demonstrate that the request places a disproportionate burden upon the Council and it appears to have no serious purpose or value, since it seeks to re-open issues previously dealt with and is seeking information already held by the complainant. The Commissioner has also viewed this and the complainant's previous requests and considers that some of the language used throughout would constitute harassment and is likely to cause distress to Council staff. The Commissioner also takes note that the Council states that the number of documents concerning the land is significant and would take an extensive period of time to read through. As the Council does not consider that retrieving the search documents would benefit the complainant in any way, the Commissioner agrees that searching for the documents would place a disproportionate burden upon the Council.

27. The Commissioner considers that the request was vexatious and therefore the Council was entitled to rely on section 14(1) of FOIA to refuse the request.

## Right of appeal

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28. 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)

29. 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.
30. 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 .....**

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