

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 June 2023

Public Authority: Liverpool City Council
Address: Cunard Building
Water Street
L3 1AH

Decision (including any steps ordered)

1. The complainant requested from Liverpool City Council (the Council) information relating to social workers and their work with adult social services. The Council determined the request to be vexatious and refused it under section 14(1) of FOIA.
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 to comply with the request for information. The Commissioner does not require the Council to take any steps as a result of this decision.

Request and response

3. On 22 February 2023 the complainant wrote to the Council and requested information in the following terms:

"How many social workers either solely, or involved in a complaint, have there been with Adult Social Services over the past 5 years.

May I please have the figures year by year for the past 5 years.

I have figures that show there are approximately 300 complaints per year but they do not show what they are for.

I would like to know the figures for social workers who work for adult social services. General numbers please - nothing that can identify anyone."

4. On 2 May 2023 the Council responded, it determined the request to be vexatious and cited section 14(1) of FOIA.
5. Following a request for an internal review on 4 May 2023, the Council provided its review response on 12 May 2023. It maintained its original position to refuse the request under the exemption cited.

Reasons for decision

6. This reasoning covers whether the Council is entitled to rely on section 14(1) of FOIA to refuse to comply with the request for information.

Section 14(1) – vexatious requests

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.
8. The word "vexatious" is not defined in FOIA. However, as the Commissioner's updated guidance¹ on section 14(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.
9. 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.

¹ <https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/dealing-with-vexatious-requests-section-14/>

10. 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.
11. 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*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.
12. 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.
13. The four broad themes considered by the UT 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).
14. However, the UT emphasised that these four broad themes are not a checklist, and they are not exhaustive. The UT 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 complainant's view

15. The complainant disputed that his request was vexatious and disagreed with the amount of requests he had submitted to the Council. The complainant said he could only find 15 FOI requests, and 7 of them were "not of my making – the other 8 were." He explained that it was suggested to him to ask for information via FOI, by a social worker, whom he believes could have provided him with the information directly.

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

16. The complainant also said a couple of his requests were made because he found the Council website "difficult to search" and another request submitted as he considered the Council had "not kept the information needed up to date."

The Council's view

17. The Council informed the complainant that these requests are the latest in a series of requests which he submitted under FOIA, and that the Council had received 16 requests since May 2021.
18. The Council stated that although clear responses had been provided to the complainant in most cases, it received further enquiries following the responses. It said this had created additional burden on the Council, and it considered other correspondence it had received at the time. The Council reported a pattern of requests and correspondence submitted by the complainant and referred to a part of the Commissioner's guidance which states "organisations may become overwhelmed, if numerous requests are made in quick succession." The Council reiterated that it had received FOI requests from the complainant since May 2021. Although some of the requests maybe deemed reasonable in isolation, the Council anticipates future requests would be received from the complainant. It referred to the Commissioner's guidance (link in paragraph 8 of this notice) to demonstrate it is able to take into account the anticipated burden of future requests.
19. The motive of the requests, the Council said, appear to be in relation to a grievance which has been exhaustively considered and addressed. The Council believes subsequent requests do not show to have a continuing justification. It determined that the requests had drifted away from the original reason for seeking information and have become vexatious by drift.
20. With regard to the value or serious purpose of the request, the Council recognises the requests relate to the complainant's private interests and a grievance against social care services. This, it said, is evidenced within the history of the complainant's engagement with the Council since February 2021.
21. In highlighting harassment or distress (of and to staff) the Council stated that in some instances, the complainant had directed personal grievances against members of staff which have been reviewed and responded to. Although, the Council said, this has not distressed staff on an individual level, the requests are the latest in a series of communications demonstrating obsessive behaviour. The Council believes this can have the effect of harassing staff, due to the collective burden placed on individuals and services.

22. Having asked the Council for further clarification with regard to its reliance on this exemption, the Council provided the Commissioner with its response. This included additional representations and previous correspondence in order to give context to its current position.
23. The Council also included a table of details of previous linked requests submitted by the complainant, and the Council confirmed it had identified 15 cases in total (not 16 as initially quoted). These requests all relate to or are substantially about the provision of adult social care. The Council said many of these requests are linked, repetitive and could be dealt with through other regimes such as complaints procedures relating to social care.
24. In each of the requests which were listed to the Commissioner, the Council said it had sought constructively to respond openly and positively.
25. The Council stated the volume of linked, repetitive queries targeted towards the same service and team, are having significant impacts. It is also placing a significant additional and onerous burdens of service on social workers. The Council argued the cumulative volume and frequency of requests diverts personnel from already stretched frontline capacity. This, it said, causes additional demands and distress on social worker personnel that are already subject to extensive regulation through employment procedures and Social Work England.
26. The Council recognises the need for openness and transparency. To date, it has engaged with the complainant and tried to provide as much information as possible.

The Commissioner's decision

27. The Commissioner is keen to stress that in every case, it is the request itself that is vexatious and not the individual who submits it.
28. 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.
29. In 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 May 2021, the complainant submitted 15 requests relating to social workers and their work with adult social services. The Commissioner notes the linked and overlapping requests along with the additional correspondence illustrating the complainant's concerns.

30. Also noted, is the Council's responses/answers to the complainant's questions which the complainant had not accepted and subsequently progressed his concerns to "multiple channels".
31. Having viewed the further representations from the Council and the table detailing the 15 previous linked requests, the Commissioner acknowledges the Council's responses to each of these. He accepts that the Council has provided the complainant with as much information (sometimes all) to each request. The Council appear to have sought constructively to respond openly and positively to the identified requests. However, given the volume of linked, repetitive queries targeted towards the same service and team, the Commissioner recognises that this is having a significant impact on the Council.
32. The Commissioner is of the view that there is limited public interest in the type of information the complainant is seeking within the given context. It is clear that the information request has been made in relation to matters affecting only the complainant. The Commissioner understands that responding to this request would likely generate further related requests and correspondence, thereby placing extra burden on the resources of the Council.
33. In the circumstances of this case, and on the evidence provided, the Commissioner believes that the request was vexatious. Therefore, the Council was entitled to rely on section 14(1) of FOIA to refuse the request.

Right of appeal

34. 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@justice.gov.uk.

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

35. 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.
36. 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
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