

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 March 2024

Public Authority: North Yorkshire Council
Address: County Hall
Racecourse Lane
Northallerton
North Yorkshire
DL7 8AD

Decision (including any steps ordered)

1. The complainant requested information held by North Yorkshire Council (the council) about safeguarding and risk assessments associated with a Drag Queen Story Hour event held at Skipton Library.
2. The Commissioner's decision is that the council is entitled to rely on section 14(1)(vexatious requests) of FOIA, as its basis for refusing the request.
3. However, by failing to issue a refusal notice within 20 working days, the Commissioner has found that the council has breached section 17(1) of FOIA.
4. The Commissioner does not require further steps to be taken by the council.

Request and response

5. On 4 August 2023, the complainant wrote to the council and requested information in the following terms:

“I would like a copy of the following:

 1. The Risk assessment in relation to the drag queen story hour recently held at Skipton Library.
 2. Any safeguarding documentation and data relating to the Skipton Library drag queen story hour, including the safeguarding reports and investigations in relation to the event, the performer and the children.”
6. On 6 September 2023, the council issued a refusal notice, citing section 14(1) of FOIA. The council said that it had already provided information about Skipton Pride, and the sources of its funding, in response to a previous request submitted by the complainant, and that it had nothing further to add in response to their most recent request.
7. At the internal review stage, the council upheld its decision to refuse the request on the basis that it was vexatious. The council said that it had received multiple communications from the complainant in respect of the Skipton Pride event, and more specifically the Drag Queen Story Hour event, and that responses had been provided under the FOIA, as well as general enquiries and via the council’s corporate complaints process.
8. The council said that consideration had been given to the cumulative correspondence received from the complainant regarding the event and the burden that it had placed on the council. It stated that the complainant has continued to challenge the council over perceived wrongdoing in respect of the Skipton Pride event, where there is no evidence to support their allegations.
9. The council also said that whilst it acknowledged that the complainant may believe that there is value to the request, it was of the opinion that it has no wider public interest, and no serious purpose.

Reasons for decision

10. This reasoning covers whether the council is entitled to rely on section 14(1) of FOIA when refusing to comply with the complainant's request.

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. There is no public interest test.
12. The term "vexatious" is not defined in FOIA. However, the Commissioner's [guidance](#) states 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.

The complainant's position

13. The complainant has challenged the council's decision that the request is vexatious. They argue that there is a strong public interest in releasing safeguarding reports and risk assessments in relation to drag queen story hours that have taken place across the UK. The complainant has said that a number of individuals have raised concerns about the story time hour that took place at Skipton Library, and it is not unreasonable to expect the council to be open and transparent about the steps taken with regard to safeguarding children.

The council's position

14. The council has said that whilst it considers the request in isolation to be vexatious, it believes it is also appropriate to take into account additional contact it has received from the complainant in its consideration of the request.
15. The council states that the complainant began their complaints about the Drag Queen Story Hour with strong accusations that suggest that the council was promoting a sexual event. The council has said that once it had responded and thereafter refused to engage in further debate about such views, the applicant contacted the library, and then continued to call the council's social care customer Emergency Duty Team line to report safeguarding concerns about the performer. The council says that this was followed by further calls to the library managers, and then further emails which shifted focus to a complaint about the display for the Skipton Pride Event.

16. The council states that the language used in the correspondence sent by the complainant made it clear their views and objections to the Skipton Pride events, including the Drag Queen Story Hour. The council goes on to say that, prior to the FOIA request of 4 August 2023, it had received 10 emails from the complainant which included objections, unsubstantiated accusations, complaints, and a referral to the safeguarding team.
17. The council has also referred to a previous request for information made by the complainant on 20 July 2023, for the following information:

“I would like a detailed breakdown of the costing for the Skipton Pride Event and where the money came from. Details I want to know are include how much was spent to hire [performer name redacted] perform at the library, what companies and individuals were paid and how much, how much the security and shutting the library cost and an itemised cost breakdown as best you can possibly manage for Skipton Pride and where the funding came from (grants, taxpayers’ money, etc).
18. The council provided the complainant with some information about costs and funding, but advised that it considered the costs for the named performer, “individuals and “companies” to be exempt from disclosure under section 43(2) (commercial interests), of FOIA.
19. The council has said that it responded to the complainant’s first request and their emails where it was able and reasonable to take such action, but refused to engage with what it described as the “offensive and prejudiced objections” that were made.
20. The council has said that it has provided assurances to the complainant that the same steps were taken in regard to this event that apply to all events which involve children. It says it provided explanations about what the story time hour will entail, how the staff always ensure that the events are age appropriate and that activities and books that are read are carefully curated. The council also says that it was confirmed to the complainant that all performers had been DBS checked.
21. The council has said that it has also taken into account the burden that resulted from the emails and phone calls it received from the complainant directly about the Drag Queen Story Hour, and also the Skipton Pride event. It said such correspondence was sent to different service areas within the council, including Skipton Library Service, Cultural Services, Customer Services, Complaints, Social Care, Safeguarding Teams and the Local Authority Designated Officer (the officer responsible for managing allegations against adults who work with children).

22. The council has said that staff and resources were diverted from high priority services in order to provide responses to the complaints made by the complainant, and that the same objections and accusations were handled by each of the service areas, as the complainant remained dissatisfied with the reasonable responses that had already been provided.
23. The council has said that the applicant's correspondence sets out clear views, using language which it states it considers to be accusatory and offensive, in order to make challenges and requests that the event does not proceed. The council has argued that this is relevant to the consideration of the request, as it is all connected to the Story Hour event.
24. The council has confirmed that it has also considered the impact on the performer, and public perception, if it were to respond to such a request. It states that there is recorded evidence of violence towards drag performers in relation to these events, as reported in the press, and it says that there are legitimate concerns about physical targeting and reputation impact for the performer.
25. The council says that it acknowledges that there is a public interest in the safeguarding of children, but that within the context of the request under consideration, there is an assumption of risk, and that the complainant has a personal interest in seeking information via FOIA to substantiate their own views.
26. The council has said that the event has provided a positive and meaningful experience for a large number of people in the community and that there is a difference between public opinion and public interest. It states that it considers that the request is not rooted in the public's interest but rather in the requester's own opinions about the event.

The Commissioner's analysis

27. FOIA gives individuals a 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.
28. However, the Commissioner 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.

29. The emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal in the leading case on section 14(1), [Information Commissioner vs Devon County Council & Dransfield \[2012\] UKUT 440 \(AAC\) \(28 January 2013\)](#) (Dransfield case). Although the case was subsequently appealed to the Court of Appeal, the Upper Tribunal's general guidance was supported, and established the Commissioner's approach.
30. When considering the issue of vexatious, the four broad themes considered by the Upper Tribunal in the Dransfield case 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).
31. The Upper Tribunal emphasised that these four broad themes are not a checklist, and are not exhaustive, saying that:
- "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).
32. A key purpose of FOIA is to promote transparency and accountability to the general public. However, it is clear from the Upper Tribunal's findings in the Dransfield case that when considering value and serious purpose we are concerned with assessing whether there is a public interest in disclosure. This means that the requester's private interests in the information carry little weight unless they coincide with a wider public interest.
33. The Commissioner's guidance on section 14(1) says that the public interest can encompass a wide range of values and principles relating to what is in the best interests of society, including, but not limited to:
- holding public authorities to account for their performance,
 - understanding their decisions,
 - transparency; and,
 - ensuring justice.
34. The Commissioner, in general, does not consider it to be unreasonable for an individual to request a risk assessment covering potential hazards

associated with holding an event, and how these will be managed in order to ensure that a public authority meets its health and safety obligations.

35. The Commissioner notes that the Drag Queen Story Hour events have attracted a lot of public interest nationwide, and there have been a number of media articles published, both in favour of, and objecting to, such events. There have also been a number of public protests outside Drag Queen Story Hour events held across the country.
36. The council has confirmed that whilst overall it received positive communications from the public in support of the Drag Queen Story Hour event, it did receive correspondence from a number of individuals who raised concerns and objections about the planned performance.
37. The council has provided the Commissioner with copies of all the concerns that it received about the Drag Queen Story Hour event and the performer, and the information that it provided in response to such concerns.
38. The Commissioner notes that, when raising their concerns with the council, several individuals reference the same article from a national newspaper which includes allegations about the performer. The complainant also referred to the same article, as well as other published articles about the performer, in their communications to the council. They also provided the council with details of posts allegedly made by the performer on Facebook which they had considered to be inappropriate.
39. The Commissioner has had regard to the serious nature of the allegations made against the performer that have been published, and considers that such information is likely to have influenced certain readers' views about the performer's suitability to work with children. He therefore does not consider it unreasonable for such individuals to have raised questions and concerns as a result. The Commissioner also considers it pertinent to note that certain individuals may have had concerns solely about the performer based on the allegations reported, and not the Drag Queen Story Hour event itself.
40. Given this, the Commissioner considers that the council should have expected a much greater degree of scrutiny over its decision to invite this particular performer to host the Drag Queen Story Hour event, than would otherwise have been the case.
41. In light of the information above, it is the Commissioner's view that if the complainant's request were to be considered in isolation, the subject matter is of public interest. The Commissioner considers that

transparency and openness about the issues relevant to the request will further inform, educate and reassure the public about the consideration given to the welfare of children at this, and other events, held by the council, and therefore the complainant's request has value and serious purpose.

42. However, the Commissioner's guidance on section 14 states that the context and history of a request is often a major factor in determining whether a request is, or is not, vexatious. It is therefore possible that the value attributed to a request when it is considered in isolation may be reduced when other relevant factors are taken into account. For example, a request may seek greater transparency over the possible failings of a public authority, or a particularly controversial matter or decision. However, if those matters have already been comprehensively investigated, or information addressing the issues is in the public domain, the value in disclosing the requested information may be diminished.
43. The Commissioner notes that the council responded to all those individuals who had raised concerns about the event, setting out detailed explanations about the activities that would be taking place, and the steps that are taken at all events to ensure that children are in an age appropriate, safe and protected environment. In its responses to concerns raised about the performer within the relevant newspaper articles, the council also confirmed that it was aware that there was information that had been published which it "understood" to be inaccurate, and that the performer was taking steps in relation to this.
44. The Commissioner does not consider that compliance with the request itself is likely to create a significant burden to the council in terms of resources and costs. With regard to the correspondence sent from the complainant to the council about the issues to which the request relates, he also does not regard the figure cited by the council of 10 emails and potentially a handful of phone calls to be significant in terms of volume.
45. However, the Commissioner notes that the complainant repeatedly raises the same concerns about the Drag Queen Story Hour event and the performer with the library and various departments within the council. Despite being provided with information and explanations regarding the event, the complainant continued to contact the council setting out the same objections and concerns.
46. The Commissioner notes that the complainant also raised other concerns and objections with the council about the Skipton Pride event, including the photographs that were used in advertising the event, and the flags that were displayed temporarily in the High Street.

47. The Commissioner considers that the timing of the complainant's request, which was made immediately after (on the same date) that they received a response to their first request, and their additional communications to the council, indicate an unreasonable persistence in wanting to pursue particular matters that have already been addressed.
48. The Commissioner considers that the request is an attempt to further pursue the complainant's personal grievances about the performer and performance, and to find fault with the council for holding the event, rather than to satisfy any broader public interest in the issues to which the request relates. The complainant has stated in their complaint to the Commissioner that a "crime" has been committed, and that individuals have been "fobbed off with assurances the safeguarding team had done checks".
49. The Commissioner considers that compliance with the request is unlikely to bring any resolution, and the complainant will remain dissatisfied whatever response they receive. In the Commissioner's view, if the council were to respond to the request it is more likely than not to result in further communications, and information requests, from the complainant about the issue.
50. Having considered all of the information available, the Commissioner considers that the information that has been provided by the council in response to the questions and concerns raised by the complainant and other individuals, and also the information that is already in the public domain, goes some way in meeting the public interest in the issues to which the complainant's request relates.
51. The Commissioner has given consideration to the findings of the Upper Tribunal in Dransfield that a holistic and broad approach should be taken in respect of section 14(1) of FOIA. Taking into account all of the above factors, the Commissioner's decision is that the request was vexatious, and the council was entitled to rely on section 14(1) as its basis for refusing the request. Therefore, the council was not obliged to comply with the complainant's request.

Procedural Matters

Section 17 – refusal notice

52. The complainant also complained to the Commissioner about the time that it took the council to deal with their request.
53. Section 17(1) of FOIA states that where a public authority refuses a request for information, it must issue a refusal notice explaining the

exemptions relied upon no later than 20 working days after the date on which the request was received.

54. The complainant made their request on 4 August 2023, and the council responded by issuing a refusal notice on 6 September 2023. The Commissioner has had regard to the relevant bank holidays in all parts of the United Kingdom, and in doing so, has found that the council's delay in responding to the request amounts to one working day. Given this, he must find a breach of section 17(1) of FOIA.

Right of appeal

55. 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

56. 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.
57. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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