

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 April 2024

Public Authority: London Borough of Harrow
Address: Civic Centre
Station Road
Harrow
Middlesex

Decision (including any steps ordered)

1. The complainant requested from London Borough of Harrow (the Council) information regarding the names of individuals for certain roles within the Council. The Council determined the request vexatious and refused it under section 14(1) of FOIA.
2. The Commissioner's decision is 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 4 October 2023 the complainant wrote to the Council and requested information in the following terms:

"I request the names of individuals for the roles of

- Section 151 Officer?
- Financial Director/Chief Financial Officer?
- Chief Executive Officer?
- Monitoring Officer?
- Head of Revenue?
- Head of Legal Services/Senior Legal Council Executive / Chief Legal Officer?

- Information Governance Manager/Data Protection Officer/
Senior Data Controller?”
4. On 11 October 2023 the Council responded. It directed the complainant to a previous request 23 August 2023 where it had determined that request vexatious and cited section 14(1) of FOIA. The Council said it would not be replying to their subsequent request because it considers it to be in a similar vein and about the same personal matters that they are pursuing. The Council also informed the complainant that it would not be offering an internal review, and they should complain to the ICO if not satisfied.
 5. On 13 October 2023 the complainant asked the Council for an internal review. The Council maintained its original position.

Reasons for decision

6. This reasoning covers why the Council was 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 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 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. 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.

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

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 Council's position

15. The Council informed the Commissioner that this request is one of six separate requests received from the complainant on 17 and 21 August 2023. The Council responded to these requests on 29 August 2023 and it provided the Commissioner with a copy of the requests and responses.
16. The Council set out background information to the Commissioner which included its dealings with the complainant. It stated the complainant has been in dispute with the Council about payment of their council tax since October 2022. The Council said, "This takes the form of repeat and often long letters and correspondence setting out confused and largely impenetrable legal arguments as to why they do not have to pay council tax."

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

17. The Council provided the Commissioner with a sample of these letters and correspondence along with its responses. With regard to the request in paragraph 3, the Council said that this was one of three separate further requests for information received from the complainant during October 2023. The Council provided the Commissioner with one of the other requests and highlighted the fact that it concerned the same matters as the earlier requests which it refused as vexatious.
18. The Council stated that many of the complainant's questions did not make sense and "are informed by a confused and misguided understanding of the law", and gave further context to its decision to refuse the requests as vexatious. The Council said that the matters the complainant is concerned with, had been dealt with in the courts.
19. In response to the complainant's argument that the Council refused to answer any of his "simple yes or no questions", it said that this does not take into account the long history and context of the complainant's series of requests to the Council. It stated that these were all concerned in one way or another with the complainant's "misguided campaign about not paying their council tax." The Council said it has invested significant amounts of time and effort in dealing with the complainant, and continue to do so, but that it is "not prepared to answer random questions or comply with repeat and vexatious requests for information."
20. The Council explained to the Commissioner its reasons for relying on section 14(1) of FOIA. It said it had considered the context and history of the complainant's series of requests and correspondence, also its previous contact with the complainant. The Council's view is that the complainant is abusing their rights under FOIA by manifestly unjustified, inappropriate and improper use of FOIA. It considers the requests are causing a disproportionate and unjustified burden, distress, disruption, cost, and irritation for the Council and its officers and Members.
21. The Council stated the requests and correspondence are putting a strain on limited Council resources and are getting in the way of delivering mainstream services and answering legitimate requests. The complainant's requests, it further argued, are imposing a burden on the public authority and its staff.
22. The Council said it had sought to explain to the complainant the clear legal basis for the Council to levy and collect council tax from residents, and obtained separate court orders confirming the complainant's liability to pay the tax. The Council considers there is nothing to be gained or learned by seeking to engage further with the complainant's "confused and non-sensical legal arguments allegedly supporting their arguments that they are not liable to pay council tax to the Council, citing ancient

and irrelevant legislation, including: Magna Carta 1215, Liberty of Subject 1354, Observance of due Process of Law 1368..."

23. The Council argued that engaging in this debate is a waste of limited Council resources, and is of no value to the complainant or to the public. It further argued that there is no legitimate purpose for the request or value in the requested information. The Council said it's difficult to discern the complainant's motive in continuing to make requests about matters that have been decided on several occasions by a court, and that there are no viable alternatives to dealing with the request under section 14 of FOIA. The Council believes that the complainant is demonstrating unreasonable persistence by seeking to reopen matters that have been decided by a court. It said, "their requests have become futile in light of the matters having already been conclusively resolved."
24. The Council is of the view that in seeking to answer the request would cause a disproportionate and unjustifiable level of distress, disruption and irritation. It stated there is no conciliatory or different approach which the Council could take that would be likely to satisfy the complainant. It believes the complainant to be pursuing a personal matter in an unreasonable way, which is putting a burden on the Council. In a previous letter to the complainant (November 2022) the Council informed him that it reserved the right to refuse to respond to lengthy spurious enquiries that focus on hypothetical considerations. Also, the use of the Council's resources at the expense of other taxpayers.
25. The Council referred to the UT's findings in Dransfield when considering value and serious purpose, and assessing whether there is public interest in disclosure. The Council considers none of the values and principles relating to what is in the best interest of society apply to the complainant's request(s). In terms of council tax, the Council said there is a clear and detailed statutory framework relating to council tax that is publicly available.
26. It believes the Council is wholly transparent and accountable for the entire council tax process, including the legal basis, billing, collection and enforcement.
27. The Council is of the view that the complainant is mainly arguing points rather than asking for information. It said, they continue to challenge the Council's right to levy council tax without any clear and logical basis for doing so.

28. As the requests span over almost a two year period, and because of the number, pattern, duration and nature of the requests, the Council's position is that the requests are imposing an unreasonable burden on the Council.
29. The Council estimated the number of FOI requests it received from the complainant relating to this subject was approximately 12, and provided the Commissioner with the supporting evidence of these requests. It confirmed it was relying on subsection (1) of section 14 and also confirmed it is relying on the lower threshold that disclosure 'would be likely' to have a prejudicial effect.

The Commissioner's decision

30. The Commissioner is keen to stress that in every case, it is the request itself that is vexatious and not the individual that submits it. 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.
31. At face value in this case, the request in paragraph three appears to be fairly simple and straight forward. However, 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 the Council received approximately 12 FOI requests relating to council tax and the Council's liability orders. The Commissioner notes the linked and overlapping requests along with the additional correspondence illustrating the complainant's concerns.
32. When considering a burdensome request, the Commissioner is required to consider both the burden involved and the public value of the information being requested. In this instance, the Commissioner recognises that the complainant is pursuing a personal campaign relating to paying council tax "lawfully due and owing". Therefore, the information requested is not considered of public value and it would not make the Council more transparent and accountable.
33. Having viewed the further representations from the Council and the details of all the requests received, the Commissioner acknowledges the responses and explanations. He accepts that the Council provided the complainant with reasonable responses to the questions and to the further information requests.
34. Given the volume of linked, repetitive questions to the Council, the Commissioner recognises that this is having a significant impact on the Council.

35. The Commissioner is of the view there is no public interest in the type of information the complainant is seeking within the given context. It is clear that the information request(s) have 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 Council's resources.
36. The Commissioner considers that this request lacks any serious purpose, and is deemed an inappropriate and unjustified use of FOIA. He also considers this request can be seen as an attempt to harass and cause distress to staff.
37. 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 141) of FOIA to refuse the request.

Right of appeal

38. 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

39. 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.
40. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Susan Duffy
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