

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

### **Decision notice**

**Date:** 22 March 2024

**Public Authority:** The Council of the Borough of South Tyneside  
**Address:** Town Hall, Westoe Road  
South Shields

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

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1. The complainant has requested the DBS checks made on a named landlord. The Council of the Borough of South Tyneside ("the Council") refused the request on the basis of section 14(1) (vexatious requests) of FOIA.
2. The Commissioner's decision is that the Council were entitled to refuse the request on the basis of section 14(1).
3. The Commissioner does not require further steps.

#### **Request and response**

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4. On 4 September 2023, the complainant wrote to the Council and requested information in the following terms:  
  
"I would like to make a foi request for the DBS checks completed on [redacted] who gained an hmo license for [redacted] on the 1st of April 2021.  
  
I am entitled to see this FOI by law as i live next door.  
  
I would also like a copy of the licence holders application form he filled in for the hmo licence."
5. The Council responded on 25 September 2023. It refused the request, citing section 14(1) (vexatious) of FOIA, and maintained this position at internal review.

## **Reasons for decision**

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### **Section 14 – vexatious requests**

6. Section 14(1) of FOIA provides that a public authority is not obliged to comply with a request for information if the request is vexatious.
7. The term 'vexatious' is not defined in FOIA. The Commissioner's guidance 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.
8. 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.
9. The Upper Tribunal considered in some detail the issue of vexatious requests in the case of the Information Commissioner v Devon CC & Dransfield. The Tribunal commented that vexatious could be defined as the "manifestly unjustified, inappropriate or improper use of a formal procedure."
10. 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**

11. The complainant has stated they believe the named individual has made false representations to the Council in order to gain a house in multiple occupation (HMO) license. They have also stated their belief the individual has a criminal record.

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

12. The Council stated in their internal review that they consider this request part of an on-going campaign regarding the HMO license issued to the named individual.
13. It advised the Commissioner that the complainant had initially made a complaint about the fitting of a new roof to the property in 2020, which was investigated and not upheld. The complainant then further raised

this with the Local Government and Social Care Ombudsman (LGO), who decided not to investigate.

14. The complainant then made a further complaint about the awarding of a HMO license to his neighbour. After this was not upheld, he made further complaints against the officers who awarded the HMO license, and then against the complaint investigation officers, which were also not upheld.
15. The Council stated in 2021, the complainant began contacting the Council to accuse his neighbour of criminal activity, and was advised to contact the police with his concerns. Despite this, the complainant has continued to contact the Council about this matter, and due to this behaviour, the Council has restricted his contact.
16. The Council has also quoted from one of the complainant's emails, in which he stated he would continue to "take up more of [the Council's] time until this hmo is closed down or repossessed". It also provided evidence of multiple other previous FOI requests for this information.

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

17. 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.
18. The Commissioner notes that the complainant has sent a large volume of correspondence to the Council including multiple information requests, complaints, and emails. Therefore, whilst the Commissioner considers that the request in question may not impose a significant burden on the Council, as the Council is a small public authority with limited resources, he considers that the aggregated burden of dealing with the complainant's overall correspondence will have placed a burden on the Council.
19. It should also be remembered that disclosure under FOIA is not just to the complainant, but to the public at large, in effect the 'whole world'. The Commissioner considers that this complainant is pursuing a private interest rather than the wider interests of the public, and has pursued that issue well beyond the point of reasonableness. He therefore considers that it is unlikely that compliance with the request in question would resolve the complainant's concerns. On the contrary, he believes it would likely result in further correspondence and information requests from the complainant. This would place a further burden on the Council and its limited resources.
20. In the circumstances of the case, and on the basis of 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

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21. 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)

22. 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.
23. 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 .....**

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