

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 September 2024

Public Authority: South Tyneside Council
Address: Town Hall & Civic Offices,
Westoe Rd,
South Shields
NE33 2RL

Decision (including any steps ordered)

1. The complainant has submitted multiple requests for information to South Tyneside Council (STC).
2. The Commissioner's decision is that STC is entitled to rely upon section 14(1) of FOIA to refuse to provide the requested information.
3. The Commissioner does not require any steps.

Request and response

Request 1

4. On 5 February 2024, the complainant wrote to the public authority and requested information in the following terms:

"Dependent Carers Allowance.

Please provide me with a breakdown of all claims made by elected members for the above allowance from January 2021 to date.

This will include each individual members, name, date claimed amount claimed / paid."

5. The public authority responded on 9 February 2024. It refused the request under section 14(1) (vexatious requests) of FOIA stating

"The Council does not view your request as having any serious purpose and views this request as part of an ongoing campaign to cause maximum disruption to Council resources. This is evidenced by the number, pattern, duration and breadth of requests you have submitted this financial year."

6. The complainant requested an internal review of the decision on 11 March 2024.
7. STC responded on 21 March 2024 and upheld its position for this request.

Request 2

8. On 8 February 2024, the complainant wrote to the public authority and requested information in the following terms:

"How many elected members have paid for parking at the Town Hall each year from May 2019 to date. Please provide me the total revenue received for the above each of the above years, from these payments made by elected members.

Please provide the same details as above and same dates from staff for parking at the Town Hall."

9. The public authority responded on 9 February 2024. It refused the request under section 14(1) (vexatious requests) of FOIA stating

"The Council does not view your request as having any serious purpose and views this request as part of an ongoing campaign to cause maximum disruption to Council resources. This is evidenced by the number, pattern, duration and breadth of requests you have submitted this financial year."

10. The complainant requested an internal review of the decision on 11 March 2024.
11. STC responded on 22 March 2024 and upheld its position for this request.

Request 3

12. On 26 February 2024, the complainant wrote to the public authority and requested information in the following terms:

"Please provide me with a breakdown of all payments made to (Name redacted) and his band called the (Name redacted) between January 2019 to date including this week when he / they performed at the Mayors evening in Hebburn.

Please breakdown all payments / dates / fees / events. Please also inform me, who each payment was made to either (Name redacted) or his group the (Name redacted).

Please also provide me with all other payments made to (Name redacted) for Social Services work from January 2012 to date, including who each payment was made to."

13. The Council responded on 31 October 2023. It refused the request under section 14(1) (vexatious requests) of FOIA stating

"The Council does not view your request as having any serious purpose and views this request as part of an ongoing campaign to cause maximum disruption to Council resources. This is evidenced by the number, pattern, duration and breadth of requests you have submitted this financial year."

14. The complainant requested an internal review of the decision on 21 March 2024.
15. STC responded on 22 March 2024 and upheld its position.

Scope of the case

16. The complainant contacted the Commissioner on 31 March 2024 to complain about STC's handling of all three requests.
17. Request 1 was allocated ICO case reference IC-297971-Q4C7, request 2 was allocated ICO case reference IC-297970-X0Q0 and request 3 was allocated case reference IC-297968. The Commissioner has considered all three complaints in this notice.
18. The Commissioner considers the scope of the case is to determine whether the council was correct to refuse the three information requests as vexatious under section 14(1) of the FOIA.

Section 14(1) – vexatious requests

19. The following analysis considers whether the requests were vexatious.
20. 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.

21. The word "vexatious" is not defined in FOIA. However, as the Commissioner's updated guidance on section 14(1)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.
22. 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.
23. 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.
24. 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*")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.
25. *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.
26. 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
 - any harassment or distress (of and to staff).

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

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

27. However, the UT emphasised that these four broad themes are not a checklist and are not exhaustive. It 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

28. The complainant stated his concerns that STC were repeatedly refusing to disclose financial information he believed should be provided to him as an elected councillor which would enable him to scrutinise STC spending.

STC's view

29. In its submissions to the Commissioner for these three requests, STC has drawn the Commissioner's attention to a number of complaints they have received from staff members about the complainant and its concerns with his conduct and behaviour as an elected member or councillor of STC.
30. STC stated that the complainant was sanctioned by STC's Standards Committee for the bullying and harassment of staff members and was found guilty of harassing another Councillor in 2022 following a trial at Newcastle Magistrates' Court, details of which were fully reported and are in the public domain.
31. STC further explained that, since 2012, the complainant has been involved in at least 16 cases of litigation with STC and its employees, all of which have been unsuccessful, and in two cases the complainant's behaviour and conduct, were found to have the intention to harass, intimidate and disrupt.
32. STC consider that the burden placed on its small team and resources in order to manage and coordinate the volumes of requests from the complainant is significant and STC have had to adapt and modify its systems to deal with the complainant requests.
33. STC stated in support of its position that:
- “Since September 2023, there has been over 1,500 emails, which are split between Member Enquiries, complaints, information requests and internal review requests, as well as further emails which continue to challenge responses issued to the data subject by the Council. These communications are often repeated and duplicated to various officers and services, are attempts to reopen

old issues, and are often offensive to those that the data subject intends to receive them. The data subject frequently makes derogatory and defamatory remarks about individuals in their correspondence, which the Council considers further evidence of the data subject's attempt to cause harassment to and bullying of individual officers.

The negative impact of those communications on officers' mental and physical health is not insignificant, causing them stress and anxiety. The data subject repeatedly makes unreasonable demands for the Council to modify its working practices and procedures by demanding named officers take no part in internal reviews, when it is part of their duties to undertake such roles. This places further unnecessary burdens on the Council in managing the data subject's information requests."

34. STC further explained that

"In 2023/24 the data subject submitted 124 FOI/EIR requests. The data subject also requested that 63 of these proceeded to internal review, which accounted for 71% of all internal reviews held that year by the Council. Although the data subject is asked why they do not feel that their request has been answered correctly and the reasons for their request to hold an internal review, they do not always provide this which the Council considers further evidence of their intention to cause as much disruption as possible."

The Commissioner's decision

35. 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.
36. The Commissioner appreciates and notes that sometimes it is beneficial to request information under FOIA and providing that there are no exemptions from its disclosure to the world at large, will provide transparency in the public interest. However, the Commissioner must also consider whether there is any value and purpose to the request which outweighs the administrative burden and disruption that the request places on STC.
37. The Commissioner also thinks it important to consider the complainant's relationship with STC over a significant period of time and that, in his role as an elected councillor, he may already have had access to some of the information that he seeks. Additionally, financial details may be disclosed at a later date via publication of its yearly accounts.

38. In this case, the Commissioner considers that the three requests lack any significant serious purpose and wider public interest. The complainant doesn't appear to have any legitimate interests other than his own general curiosity and perhaps a desire to settle any personal grievances with STC by repeatedly making multiple requests very close together, escalating requests to internal review and then pursuing a formal complaint to the Information Commissioner for a Decision Notice.
39. The Commissioner considers that these requests appear to be an attempt to use FOIA in an improper way to satisfy the complainant's own private interests rather than accessing information which may be of wider public interest and considers this an improper use of FOI legislation.
40. Having reviewed the limited correspondence and supporting arguments from the complainant, the Commissioner also considers that the complainant is unlikely to ever be satisfied with STC's responses. If STC had complied with the request, there is a high likelihood that correspondence would continue with no end in sight for STC. The Commissioner is satisfied that providing a response to these requests would prolong correspondence and places an unfair burden on STC in a manner which would be disproportionate to the value of the requests.
41. The Commissioner also recognises that STC is a small public authority with a small team who deal with FOI requests, who have adapted how the team works to specifically deal with the complainant.
42. He therefore accepts STC's argument that complying with the requests would place additional pressures and burden on its limited resources and results in an unjustified level of disruption, diverting them from other matters.
43. The Commissioner's decision is that these requests are vexatious. Therefore, the Commissioner believes that STC was entitled to rely on section 14(1) of FOIA to refuse the requests.

Right of appeal

44. 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

45. 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.
46. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Michael Lea
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