

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

### **Decision notice**

**Date:** 16 September 2024

**Public Authority:** Birmingham City Council  
**Address:** Council House  
Victoria Square  
Birmingham  
B1 1BB

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

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1. The complainant has requested correspondence between the Council and the Information Commissioner Office relating to a specific case.
2. The Commissioner's decision is that the Council was entitled to rely on section 14(1) to refuse the request.
3. The Commissioner does not require any further steps to be taken.

#### **Request and response**

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4. On 25 January 2024, the complainant wrote to the Council and requested information in the following terms:  
  
"Please provide all correspondence with the Information Commissioners Office relating to Reference: [case reference redacted]."
5. The Council responded on 25 January 2024. It stated that it was refusing to comply with the request under section 14(1). A position which was maintained by the Council in its internal review.

## Reasons for decision

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### Section 14(1) – vexatious requests

6. 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.
7. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s updated guidance 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.
8. 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.
9. 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.
10. 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”). Although the case was subsequently appealed to the Court of Appeal, the UT’s general guidance was supported, and established the Commissioner’s approach.
11. 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.
12. 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). Section [add section] of FOIA/EIR states that

### **The Council's position**

13. The Council explained to the Commissioner that the request in this case refers to a complaint also made to the Commissioner under a specific case reference. This specific case reference was a request regarding charges for repairing damage to Council property.
14. In addition to this request, the original requester also made a request which was later referred to by the Commissioner under another specified reference. This request referred to three different requests which the Council had already exhausted within its internal process and resulted in the case being refused as vexatious.
15. The Council informed the Commissioner that due to the nature of the request and previous vexatious requests from the original complainant, it is a sheer improbability that anyone, other than the original requester would be interested in the requested information. The Council was therefore satisfied that the complainant in this case and the original requester were clearly working in concert with each other.
16. The Council also referred the Commissioner to the Company House website, which listed the complainant in this matter as the official address for a business, which the Council advised was owned by the original requester.
17. The Council went on to explain that complying with the request would require it to review 40 documents, 4 spreadsheets, 13 images and 46 emails. It also said that it would be required to spend additional time identifying if any of that information is subject to legal privilege and an assessment would need to be undertaken by a lawyer.
18. Due to the above, the Council advised that complying with the request would cause a considerable drain on the Council's resources and it was unable to discern any public interest in the present request. The Council finalised their argument stating that the impact of compliance on the Council's resources as well as on staff morale would be wholly unjustified.

### **The Complainant's position**

19. The Complainant strongly denied working in conjunction with the original requester and stated their interest was in the contents of the Council's response to the ICO.

### **The Commissioner's position**

20. The Commissioner has reviewed the evidence provided by the Council, and the previous requests made by the original complainant and is

satisfied that the Council was entitled to rely on section 14(1) when refusing this request.

21. The Commissioner agrees that there is no demonstratable wider public interest in the requested information and to ask public authorities to comply with such low value requests is an inappropriate use of FOIA. It appears that the request was motivated by a wider grievance or agenda related to prior refusal notices.
22. The Commissioner also notes that as FOIA is a disclosure to the world at large and not just the complainant in this matter, providing the requested information could also lead to the original requester making further challenges to the Council and further vexatious requests. This would clearly create a disproportionate burden on the Council and its staff.

## Right of appeal

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23. 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)

24. 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.
25. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**