

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 September 2024

Public Authority: Tunbridge Wells Borough Council

Address: Town Hall

Royal Tunbridge Wells

Kent

TN1 1RS

Decision (including any steps ordered)

1. The complainant made four requests on the same day for information about Penalty Charge Notices ("PCNs"). Tunbridge Wells Borough Council (the Council) cited section 14(1) of FOIA to refuse the requests as vexatious to withhold the requested information.
2. The Commissioner's decision is that the public authority was entitled to rely on section 14(1) of FOIA to refuse the requests.
3. The Commissioner does not require any steps as a result of this decision.

Request and response

4. On 2 May 2024, the complainant wrote to the public authority and requested information in the following terms:

"1) Full details of the PCN's including where the payment for the bus lane infringements' and 'copies of correspondences you hold regarding these fines.

2) In the email below, (redacted) states 'As the Penalty Charge Notices you received have either been paid or cancelled, there is no recourse through the Traffic Penalty Tribunal'....can you please confirm which fines he was referring to?

3) In the email below, from (redacted), it states I paid a bus lane infringement for KU8893075A. This is not true. In all the correspondences and fines detailed never once has this serial number been mentioned or detailed. Which car is this for? When and where was the infringement made. In the number of correspondences over the last year, this number was never detailed. Could this be where the fine we paid for (redacted) was not accepted by TWBC but went on to pay another fine KU8893075A.

4) In (redacted) email to me detailed below, below he states the following 'Under our appeals guidelines, I have cancelled the first PCN, so all of the above cases are now closed'. There now appear to be five bus lane infringements which one was the one he was referring to cancel? Which Car and when was the fine issued."

5. The public authority responded to the requests on 3 May 2024. It refused the requests as vexatious citing section 14(1) of FOIA to do so.
6. It upheld this position at internal review on 4 June 2024.

Reasons for decision

Section 14(1) – vexatious requests

7. The following analysis considers whether the request was vexatious.
8. 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.

9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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).
15. However, the UT emphasised that these four broad themes are not a checklist and are not exhaustive. It stated:

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>

"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).

16. The complainant has explained to the Commissioner that their motivation for making the request was that:

"I failed under FOI to secure information about a Bus lane infringement ticket Tunbridge Wells borough council (TWBC) took me to court and had the bailiff try to force entry into my home despite the council stating last year and earlier this year no fines are outstanding or being pursued. I require the information to apply to the court to have the judgment set aside as I have letters from TWBC that nothing is owed or outstanding."

17. In correspondence to the Commissioner dated 4 August 2024, the complainant further explained that:

"I contacted the courts with very basic information to hand and was able to have the case set aside until I can secure the information from TWBC."

18. The Council explained in its initial response that:

"In assessing the value of your request, we have taken into account that you submitted a request on 17 April 2024. This request is still being considered as a subject access request and we have contacted you separately to request further evidence of your identity so that we may proceed with your request.

We consider that your latest FOI requests are repetitive and overlapping in nature to your subject access request. Furthermore, your request relates to information which concerns private interests, and we consider that the information you have requested is of limited value to the wider public.

We can also see that you submitted a complaint on 30 April 2024. This is likely to be the most appropriate route for you to raise your concerns and have the matter fully investigated as a complaint relating to the Council's enforcement action in relation to Penalty Charge Notices cannot be investigated as part of an FOI request.

We consider that attempts to pursue your complaint by making repeated FOI requests on the same or similar topics is an improper use of the FOI process."

19. The Commissioner is of the view that the requests were vexatious. The complainant is aware of the options available if they consider that a PCN has been unreasonably issued to them – it is evident from the submissions that they are already pursuing at least one of these avenues.
20. Furthermore, the Commissioner agrees with the public authority that the broader value of the requests to the general public is negligible. By only seeking information about PCNs issued to themselves, the wider value of complying with the requests will be very limited. The resulting data is unlikely to be of considerable use to anyone wishing to evaluate the public authority's processes for issuing PCNs as it will reveal only a tiny (and potentially misleading) proportion of a much larger picture.
21. It is evident from the requests and associated correspondence that the complainant has an underlying grievance with the public authority relating to the issuing of PCNs. Whether or not that grievance is valid, the Commissioner does not consider that dealing with the request would bring that underlying grievance any closer to a resolution.
22. The public authority was therefore entitled to rely on section 14(1) of FOIA to refuse the requests.

Right of appeal

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

Website: 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.

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