

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

### **Decision notice**

**Date:** 11 October 2024

**Public Authority:** Tees Valley Combined Authority  
**Address:** Teesside Airport Business Suite  
Teesside International Airport  
Darlington  
DL2 1NJ

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

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1. The complainant has requested any internal communications about a previous FOI request. Tees Valley Combined Authority ("the Council") refused the request, citing section 14(1) (vexatious) of the FOIA.
2. The Commissioner's decision is that the Council are not entitled to rely on section 14(1) to refuse the request.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - Issue a fresh response to the request that does not rely on section 14(1).
4. The public authority must take these steps within 28 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

#### **Request and response**

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5. On 13 May 2024, the complainant wrote to the Council and requested information in the following terms:

“Please release all internal communication from both STDC and TVCA relating to FOI request STDC28-2024.”

6. The Council responded on 5 June 2024. It refused the request under section 14(1) of the FOIA and maintained this position at internal review.

## Reasons for decision

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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)<sup>1</sup> 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 Commissioner recognises that dealing with unreasonable requests can strain resources and get in the way of delivering other 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), *Dransfield vs Information Commissioner & Devon County Council* [2012] UKUT 440 (AAC), (28 January 2013) (“*Dransfield*”)<sup>2</sup>. Although the case was subsequently appealed to the Court of Appeal, the UT’s general guidance was supported, and established the Commissioner’s approach.

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<sup>1</sup> [Dealing with vexatious requests \(section 14\) | ICO](#)

<sup>2</sup> [Social Security & Child Support Commissioners \(tribunals.gov.uk\)](#)

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 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).
15. 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 Council's view**

16. The Council has stated the new request was made before it had responded to the original request, which was delayed due to consultation with a stakeholder. It has argued responding to the further request would cause disproportionate disruption to the public authority because it would divert resources more appropriately spent on answering the original request.

### **The complainant's view**

17. In their request for internal review, the complainant stated:

"The original FOI request... was delayed due to 'internal stakeholder consultation'. The new request (35-2024) was raised to ascertain whether or not that internal stakeholder consultation was appropriate and lawful. To ask for this is not vexatious."

### **The Commissioner's view**

18. 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.

19. In its response to the complainant and the Commissioner, the Council failed to identify any evidence of harassment, an intent to disrupt, or a lack of serious purpose in the request.
20. In particular, with regards to the original request, the Commissioner wishes to note his concern that the Council extended the time for their response due to "internal stakeholder consultation". While the FOIA permits an extension of up to twenty working days, this is only for consideration of the public interest test. It does not cover "internal stakeholder consultation".
21. The Council has provided some arguments for burden, stating a response to the further request would divert resources from their response to the original.
22. The Commissioner does not accept this argument. He notes the Council is a large authority, and should have sufficient resources to handle more than one information request at a time.
23. As noted above, consideration of whether a request is vexatious is not limited to the four major factors of burden, value, purpose and harassment. However, the Council has not provided details of any other context or circumstances that would render the application of 14(1) suitable.
24. In the Commissioner's view, the Council has failed to demonstrate that the request is vexatious and so was not entitled to refuse it under section 14(1).
25. The Council must now issue a fresh response to the request

## **Right of appeal**

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26. 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)

27. 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.
28. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Joanna Marshall**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**