

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 October 2024

Public Authority: Westminster City Council
Address: 64 Victoria Street
London
SW1E 6QP

Decision (including any steps ordered)

1. The complainant requested information from Westminster City Council (the Council) relating to information about the Local Land and Property Gazetteer in 1999/2000. The Council refused the request under section 14(1) of FOIA (vexatious requests).
2. The Commissioner's decision is that the request was vexatious and therefore the Council was entitled to rely upon section 14(1) of FOIA to refuse it.

Background

3. The Local Land and Property Gazetteer (LLPG) is a database of addresses kept by the Council, which date from around 2000. The complainant has informed the Council and the Commissioner that, as a result of "inaccurate mapping, inaccurate geographical coordinates assigned thereto (using that mapping)" the emergency services that utilised this information were delayed in responding to an emergency situation at the complainant's address in 2021.

Request and response

4. On 15 January 2024, the complainant made the following request for information to the Council:

"On 17 April 2023 I sent an email to Manish Joshi (Head of Data Digital and Innovation Service) notifying him that certain property in the City

of Westminster owned by WCC [Westminster City Council] was inaccurately represented by Google maps.

Within the body of that communication was a screenshot of the relevant map taken at 19.57 BST on the same date. It reflected the inaccurate information WCC had provided to Ordnance Survey in or about 1999/2000.

For ease of reference the text of the email is as follows:

From: [complainant's personal data redacted] Sent: 17 April 2023 21:29
To: Joshi, Manish: WCC (mjoshi@westminster.gov.uk)
Subject: RE: INACCURATE INFORMATION SHARED WITH GEOPLACE

Dear Manish : I refer to previous correspondence and would draw your attention to the mapping below. The errors are the result of information uploaded by the LLPG back in 1999/2000. It persisted on OS Mapping until late March 2021.

So far as the Google maps are concerned it continues to this day.

Please advise:

1. What action was taken by WCC to seek correction of the mapping ; and
2. Please provide paper copies of all relevant documentation in support of your response."
5. On 12 February 2024, the Council responded and said the request was being refused because it was vexatious under section 14(1) of FOIA.
6. Following an internal review, the Council wrote to the complainant on 18 March 2024, upholding its position.

Scope of the case

7. The complainant contacted the Commissioner on 18 March 2024 to complain about the way their request for information had been handled.
8. The scope of the case is to consider whether the Council correctly determined that the request was vexatious.

Reasons for decision

Section 14(1) – vexatious requests

9. 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.
10. 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.
11. 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.
12. However, the ICO recognises that dealing with unreasonable or disproportionate 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.
13. 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.
14. 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.
15. 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

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>

- any harassment or distress (of and to staff).
16. 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 position

17. In its refusal notice the Council referred to an “underlying grievance” regarding what the complainant refers to as “errors in the LLPG” in 2021. The complainant considers that these errors led to a delay in an ambulance attending a family member at their address.
18. The Council explained to the Commissioner that it recognised the serious nature of the matter and, as such, had sought to engage with the complainant via various means as follows:
- In March 2021 the complainant submitted their first request for information about naming/ numbering.
 - In April 2021 the complainant stated that their request for an Internal Review was pending another ‘internal investigation’, and that they hoped “it will not be necessary to revive it again”.
 - This was because the matter was, at that time, being investigated under the Council’s stage 1 and 2 formal complaints process, the latter completing in May 2021.
 - Further the complainant referred the matter to the Local Government Ombudsman (LGO) who issued a decision on 14 July 2021 that the complaint was out of their jurisdiction.”
19. The Council explained that the complainant submitted further FOI/ EIR requests alongside contacting departments directly. In 2023 staff members engaged with the complainant to reach a resolution but this was unsuccessful. Currently the Council has appointed a member of its Legal Services as a specific point of contact who is committed to working with the complainant to resolve their issues. The Council advised that mediation with the complainant is ongoing.
20. The Council’s position is that the complainant is using the FOI/EIR access to information regime to pursue a campaign against it due the underlying grievance referred to at paragraph 17 above. The Council suggested that this grievance was not resolved to the complainant’s

satisfaction, despite the Council's efforts to resolve it through various means between 2021 and 2023.

21. In its refusal notice and submissions to the Commissioner the Council explained that this request for information is one of 22 requests made in a 15 month period since October 2022, nine of which relate to the address in question. The Council further explained that the number of requests does not reflect the considerable amount of correspondence generated in the course of those nine requests.
22. The Council went on to say that the correspondence includes withdrawing of complaints, chasing responses to withdrawn complaints, asking for verification of information provided, contacting services directly requesting similar information for cross referencing and then challenging those responses. Most significantly the Council feels that a response to a request leads to further requests with the previous requests being referenced or with additional queries.
23. The Council maintained that this volume of correspondence had placed it under a disproportionate burden distracting it from the provision of Council services.
24. Furthermore, the Council considered that the requests in relation to the address and LLPG are targeted towards one individual employee, ie the LLPG custodian. This is because the naming and numbering of the requests predominantly point to the work of that employee. As a result the same employee has been involved in the answering of and/or been the subject of seven requests, Stage 1 and Stage 2 formal complaints, and an LGO complaint, since 2021.
25. The Council was of the opinion that the complainant's request of 15 January 2024 had in effect been dealt with two years as part of a response to a similar request from the complainant. In 2021 the process of OSS mapping and the role of the Council in that process was explained to the complainant in the course of a Stage 1 and Stage 2 complaint.

The complainant's position

26. The complainant strongly objected to the Council's assertion that their request was vexatious. They stated that their request related to a matter that

"...affects numerous residents and is therefore in the public interest and not merely a 'personal campaign' as asserted by [the Council]".

27. In their request for an internal review the complainant stated that:

"I require to know what action the Council has taken since becoming aware of the errors in Google maps relating to its properties which it owns and in respect of which it has a duty of care towards its residents."

28. They also stated that they had brought this matter, ie the errors in Google Maps, to the Council's attention in April 2023, nine months before submitting their request for information.

29. In that correspondence the complainant further reminded the Council that a recent TMO [Traffic Management Order] was "partially defective" because of the use of Google Maps. The complainant felt this supported their concern about the Council's perceived failure to take appropriate action.

30. The complainant expressed concern to the Commissioner that the Council had claimed their request was vexatious in order "to avoid disclosing the fact the Council has chosen to take no remedial action whatsoever".

The Commissioner's decision

31. The Commissioner recognises that the complainant in this case has been in dispute with the Council for some time regarding their grievance. It is clearly of great importance to the complainant, and potentially to a number of residents in the area who may be affected.

32. However, the Commissioner accepts that the wider grievance has been thoroughly pursued via the Council's internal complaints process, as well as general correspondence and a number of information requests. The Commissioner therefore considers that this latest request can be seen as evidence of attempting to prolong a grievance that has already been comprehensively dealt with. In the Commissioner's opinion this may fairly be described as unreasonable persistence, which is often an indicator of a vexatious request.

33. The Commissioner observes that the Council has not claimed that complying with the request itself would place a significant burden on the Council. However he is persuaded that the aggregated burden of dealing with the complainant's correspondence to date has already placed a considerable strain on the Council and its resources.

34. The Commissioner is satisfied that the Council has taken steps to manage the complainant's behaviour and the impact of their correspondence. This has included setting up a single point of contact, and entering mediation. The Commissioner further acknowledges that the Council has responded to the complainant's correspondence and has

provided several responses to their requests for information. It has also considered their complaints under the appropriate processes.

35. Having considered the context and history of correspondence, the Commissioner has seen no evidence to suggest that compliance with the request would bring an end to the dispute. He considers it more likely that any response would lead to further complaints and requests, resulting in more correspondence and further burden.
36. For the reasons set out above the Commissioner is satisfied that the complainant's request of 15 January 2024 was vexatious. Therefore he finds that the Council was entitled to rely on section 14(1) of FOIA to refuse that request.

Right of appeal

37. 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

38. 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.
39. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Sarah O’Cathain
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