

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

### **Decision notice**

**Date:** 29 October 2024

**Public Authority:** Information Commissioner  
**Address:** Wycliffe House  
Water Lane  
Wilmslow SK9 5AF

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

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1. The Commissioner's decision is that the ICO is entitled to refuse the complainant's request for information about its work because the request is vexatious under section 14(1) of FOIA.
2. It's not necessary for the ICO to take any corrective steps.
3. This decision notice concerns a complaint made against the Information Commissioner ('the Commissioner'). The Commissioner is both the regulator of FOIA and a public authority subject to FOIA. He's therefore under a duty as regulator to make a formal determination of a complaint made against him as a public authority. It should be noted, however, that the complainant has a right of appeal against the Commissioner's decision, details of which are given at the end of this notice. In this notice the term 'ICO' is used to denote the ICO dealing with the request, and the term 'Commissioner' denotes the ICO dealing with the complaint.

#### **Request and response**

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4. The complainant made the following information request to the ICO on 18 January 2024:

"2.18 # Accordingly, noting EA/2014/0177, the 23 DNs and the Auditor's reporting, please let me know the date and substance of when the Commissioner discharged the duty specified in S47(1), with regard to Potto council only, for the period 2014 to 2022 inclusive.

2.20 # Please send me a copy or screenshot of the section of the 'Sectoral Database' applicable to Potto council – I wish to determine which 'good practice issues' have been 'logged.'

2.21 I also note that S48(3)FOIA requires the Commissioner , prior to issuing a 'Practice Recommendation' to an inadequately compliant council, to consult the 'Keeper of Public Records'.

# Accordingly, please let me know the most recent date that the Commissioner consulted the Keeper of Public Records during the course of issuing a 'Practice Recommendation' to any 'smaller authority' (ie, a town or parish council, as defined by SAAA). For clarification, I note the ICO website has details of some 'Practice Recommendations', as issued to principal authorities, but the scope of my request is limited to 'smaller authorities' only."

5. The ICO's final position is that the request is vexatious under section 14(1) of FOIA.

## Reasons for decision

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6. Under section 14(1) of FOIA a public authority isn't obliged to comply with a request for information if the request is vexatious.
7. Broadly, vexatiousness involves considering whether a request is likely to cause a disproportionate or unjustified level of disruption, irritation, or distress.
8. To analyse vexatiousness, the Commissioner considers four broad themes that the Upper Tribunal developed in **Information Commissioner vs Devon County Council & Dransfield [2012] UKUT 440 (ACC)**:
  - Value or serious purpose
  - Motive
  - Burden; and
  - Harassment to staff
9. The Commissioner will first look at the value of the request as this is main point in favour of the request not being vexatious. He'll then look at the negative impacts of the request ie the three remaining themes of

burden, motive, and harassment, before balancing the value of the request against those negative impacts.

10. In its initial refusal of the request, dated 9 February 2024, the ICO said it had taken into account the context, history, and the complainant's pattern of behaviour when it reached its decision.
11. The ICO advised the complainant that their request clearly stemmed from their dissatisfaction with the ICO and the way it had handled their complaints about Potto Parish Council (PPC). It seemed to the ICO that that the complainant was using FOIA as a means to further their grievances about the ICO and PPC, rather than as a genuine attempt to access information the ICO holds.
12. The ICO noted that the complainant's information request had been contained within a 29-page complaint letter. In this letter the complainant had made numerous unfounded allegations about ICO staff engaging in criminal and corrupt behaviour.
13. The ICO went into more detail in its internal review dated 29 April 2024.
14. It noted that in the last two years the complainant had submitted eight information requests to it which "overwhelmingly" related to PPC, or the complainant's dissatisfaction with how the ICO had dealt with their complaints about PPC. This was in addition to 15 complaints submitted to the ICO as regulator which, again, largely appeared to relate to their dissatisfaction and grievances with PPC. The ICO said it had also received "copious and protracted correspondence" from the complainant in connection with these matters over a number of years.
15. The ICO advised that the complainant's latest request seemed to stem from their continued dissatisfaction with the ICO and the way it has handled their information requests and FOIA complaints about PPC, as set out in the 29 page letter of 18 January 2024. It was clear to the ICO that there was a common theme to these requests, and it considered that they demonstrated a level of unreasonable persistence on the complainant's part.
16. The ICO went on to note that the complainant had already demonstrated through their dealings with it that they were unwilling to accept reasoned explanations and outcomes that didn't accord with their own view; the ICO considered that the complainant demonstrated an obsessive approach to such matters. From their pattern of correspondence with the ICO, it was "abundantly clear" to it that the complainant would use whatever response the ICO provided to the current request to propagate their own perceived grievances. This would lead to further correspondence, requests, complaints, and appeals.

17. The ICO advised the complainant that to enter into another such cycle of futile correspondence with them would be tantamount to a misuse and abuse of FOIA and would cause a disproportionate and unjustified level of disruption, irritation, or distress.
18. Noting that the complainant had stated that it wasn't their intention to cause disruption, irritation, or distress, the ICO advised that this was logically the end result of their request. It advised that it could identify no serious purpose or wider public interest behind their request, other than to pursue their own personal grievances in respect of the ICO's handling of their complaints about PPC, and PPC itself. The ICO advised the complainant that complying with their request would simply squander its scarce resources. It also noted that the complainant would be unlikely to correspond about any response in a measured, reasonable, and respectable manner. It noted that their letter of 18 January 2024 had been littered with allegations of corruption, bias, and incompetence of ICO staff.
19. The ICO confirmed that it had to consider any harassment or distress caused to its staff. It noted that the tone of the complainant's correspondence with it was frequently derogatory and accusatory, to the extent of implying on a number of occasions that the ICO was acting unlawfully.
20. ICO cited examples of such language in the complainant's correspondence to it. It also cited examples from First-Tier Tribunal (FTT) Information Rights appeals in which the FTT had remarked on the complainant's "abusive language" and "personal, bullying and accusatory comments." The FTT had also noted the triviality of the subject matter.
21. The ICO advised the complainant that it was inevitable that its staff would feel demotivated and harassed by the complainant's constant barrage of criticism and accusations of criminality.
22. It concluded by confirming that, given their distrust and dissatisfaction with the ICO, the complainant would be unwilling to accept any answer it did provide to their request. In the ICO's view, the complainant was using FOIA requests as a tool to cause deliberate disruption and distress, and to perpetuate their own perceived grievances.
23. The Commissioner agrees with the FTT that the matters that the complainant is pursuing – which stem from dissatisfaction with PPC – are trivial. The subject of the current request may be of interest to the complainant – although the Commissioner considers this is doubtful – but it has no wider public interest.

24. The Commissioner has considered the background and context to the request that the ICO has described. He considers it more likely that the complainant is indeed using FOIA simply to perpetuate their grievances, to harass ICO staff and to cause a nuisance to the ICO generally. This is a completely inappropriate use of the legislation.
25. Balancing the value of the request against the negative impacts of complying with it, the Commissioner is satisfied that the request is vexatious and that the ICO was correct to refuse it under section 14(1) of FOIA.

## **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.

**Cressida Woodall**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**