

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 November 2024

Public Authority: Local Government and Social Care
Ombudsman (LGSCO)

Address: PO Box 4771
Coventry CV4 0EH

Decision (including any steps ordered)

1. The Commissioner's decision is that the complainant's request for information about an equality policy is a repeated request. LGSCO was therefore entitled to refuse the request under section 14(2) of FOIA.
2. It's not necessary for LGSCO to take any corrective steps.

Request and response

3. The complainant made the following information request to LGSCO on 7 June 2024:
 1. Under the complaint with lack of regard under s149 EQA 2010 against Herefordshire Council in 2023, please provide the evidence used and stated as having been read by [redacted] in correspondence received by me.
 2. Please provide all correspondence sent and received to and from Herefordshire Council since 2023. Names redactions re permissible but the thrust of the correspondence should be retained. As detailed to [redacted] who is refusing to disclose such even though the Brown Principles and binding precedents require such release, the FOIA is made as a safeguard.

In relation to the LGSO

3. Please provide all s149 data including the LGSCO's evidence of application, policies relating to such for the last 2 years. This includes evidence of what was examined, how, when and what were the following mitigations put in place as a result of those examinations.”
4. LGSCO responded to the first two parts of this request separately, under the data protection legislation.
5. LGSCO’s final position is that the third part of the request is a repeated request under section 14(2) of FOIA.
6. The complainant submitted a complaint to the Commissioner on 28 June 2024, dissatisfied that LGSCO had categorised their request as vexatious (section 14(1) of FOIA concerns vexatious requests).
7. The Commissioner confirmed to the complainant that LGSCO is relying on section 14(2) and not section 14(1). He advised the complainant that, on the basis of LGSCO’s correspondence to them, he considered that section 14(2) was engaged.
8. The complainant didn’t accept the Commissioner’s assessment and preferred to conclude their complaint through a formal decision.

Reasons for decision

9. This reasoning focusses on whether LGSCO is entitled to refuse part 3 of the complainant’s request under section 14(2) of FOIA.
10. Under section 14(2) of FOIA, where a public authority has previously complied with a request for information, it’s not obliged to comply with a subsequent identical or substantially similar request from the same person unless a reasonable interval has elapsed between the requests.
11. In its initial response to the request dated 25 June 2024, LGSCO said that the complainant’s request was substantially similar to one it had received on 21 January 2024. LGSCO said that it had responded to that request on 16 February 2024. It had confirmed that it doesn’t have a section “149 of the Equality Act 2010 policy” but had provided links to its Equality and Diversity policy and sections of other policies about service provision. LGSCO confirmed that it had also responded to their complaint about that response (ie had provided an internal review), on 8 March 2024.
12. LGSCO advised that, due to the short time which had elapsed between the two requests, it was refusing the complainant’s current request under section 14(2) of FOIA.

13. The Commissioner notes, however, that LGSCO had introduced this response by advising, "I am refusing this request and am relying on section 14(1) of FOIA which is about vexatious requests." Understandably, this might have introduced some confusion for the complainant.
14. LGSCO provided an internal review on 28 June 2024. It confirmed that it was refusing the request under section 14(2) of FOIA. LGSCO noted that the complainant's first request of 21 January 2024 was as follows:

"Please provide your s149 EQA 2010 data which applies to all areas of your operation in relation to contact with complainants only. This will include policies, & evidence of due regard. This s149 data required is only in relation to how the LGSO deals with complainants and does not include your diversity policy already available as this applies only to employer-employee matters."
15. It said that the requests of 21 January and 7 June 2024 are "virtually identical." As such, LGSCO confirmed that it considered that section 14(2) of FOIA applied to the request of 7 June 2024.
16. The Commissioner has reviewed the two requests and first, he agrees that they're substantially similar. Second, he notes that LGSCO had complied with the 21 January 2024 request; it had confirmed that it doesn't hold the specific information requested but had directed the complainant to relevant published information.
17. Finally, the Commissioner considers that it would be reasonable to expect that between 8 March 2024 (when LGSCO had provided its first internal review) and 7 June 2024 (when the complainant submitted their second request) the situation with the requested information wouldn't have changed ie LGSCO wouldn't have now held the information in June when it didn't in March.
18. The Commissioner's decision is therefore that LGSCO is entitled to refuse the third part of the complainant's request of 7 June 2024 under section 14(2) of FOIA, as it's a repeated request.

Right of appeal

19. 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

20. 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.
21. 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