

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

### **Decision notice**

**Date:** 5 November 2024

**Public Authority:** London Borough of Richmond upon Thames  
**Address:** Civic Centre  
44 York Street  
Twickenham  
TW1 3BZ

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

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1. The complainant has requested, from the London Borough of Richmond upon Thames (LBRUT), various information relating to an indoor renovation project at Pools on the Park, a Grade II listed building. This decision notice concerns four complaints that the complainant made to the Commissioner (references IC-300052-G2Z8, IC-305377-Y5Q5, IC-305634-L8K7 and IC-327841-D8P9), about four requests. In response to those four requests, LBRUT said it doesn't hold some of the requested information, disclosed other information, and withheld other information on the basis of various exemptions – sections 22 (information intended for future publication), 40(2) (personal information) and 43 (commercial interests) of FOIA.
2. The Commissioner investigated the above cases simultaneously. During the Commissioner's investigation, LBRUT retrospectively applied section 14(1) of FOIA (vexatious requests) to all four requests; in the alternative, LBRUT maintained its original and internal review positions.
3. The Commissioner's decision is that LBRUT is entitled to refuse to comply with all four requests, on the basis of section 14(1). However, he

also finds that LBRUT breached section 17(5) of FOIA, due to its late reliance on section 14(1).

4. The Commissioner doesn't require any steps.

## **Requests and responses**

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5. For ease of reference, the Commissioner has numbered the four requests being considered in this decision notice, in order of the date they were made.

### **Request 1**

6. On 7 February 2024, the complainant wrote to LBRUT and requested information in the following terms:

"Please provide all project management documentation for the strip out of the health suite area at Pools on the Park Richmond that took place in July 2022.

This should include (but not be limited to):

1. Reason(s) that the work was required.
2. Specification of the works to be carried out.
3. Details of planning advice or listed building consent received on this project since this is a Grade II listed building.

I believe this was the responsibility of the Corporate Project Office and the works were carried out by the Council's Facilities Management department".

7. LBRUT responded on 1 March 2024 and said "there is no project management documentation"; it also provided some comments in response to the three points that the complainant had listed.
8. Following an internal review LBRUT wrote to the complainant on 3 April 2024. It stated "[LBRUT] does not hold any project management documentation for the strip out of the health suite area at Pools on the

Park ... [LBRUT] does not hold any recorded information relevant to your request".

## **Request 2**

9. On 7 February 2024, the complainant wrote to LBRUT and requested information in the following terms:

"Please provide all communications between [LBRUT] and QS Support Ltd in regards to the two options for the health suite area at Pools on the Park that culminated in project estimates of £140K and £210K in a document dated 31/10/22".

10. LBRUT responded on 6 March 2024 and disclosed some information; it also withheld other information, on the basis of sections 40(2) and 43 of FOIA.
11. Following an internal review LBRUT wrote to the complainant on 30 April 2024. It disclosed more information, and maintained its original position regarding sections 40(2) and 43 of FOIA.

## **Request 3**

12. On 28 February 2024, the complainant wrote to LBRUT and requested information in the following terms:

"Please provide the full anonymised results of this residents consultation on the future group exercise studio at Pools on the Park that was open between 01/02/24 and 28/02/24 ...".

13. LBRUT responded on 6 March 2024. It said there was no consultation exercise; it also refused to disclose information, on the basis of section 22 of FOIA.
14. Following an internal review LBRUT wrote to the complainant on 17 April 2024, maintaining its original position.

## **Request 4**

15. On 15 April 2024, the complainant wrote to LBRUT and requested information in the following terms:

"This is a supplementary [FOIA] request to [the request quoted in paragraph 9 above] ...

In this email thread between the LBRUT project officer and QS Support Ltd ... [link redacted]

A third (redacted) person is referred to by the Project officer in their email sent at 0945hrs on 25/10/22 when they say "I will wait to hear back from XXXX before feeding these back to you."

Please provide all emails between this project officer and this third person in regards to this Pools on the Park project".

16. LBRUT gave its substantive response on 30 April 2024, as part of an internal review that related to a previous request of the complainant's (the request quoted in paragraph 9 above). LBRUT said "As previously advised, [LBRUT] has already provided copies of all communications held between [LBRUT] and QS Support regarding options for health suite at Pools on the Park".
17. On 9 May 2024, the complainant contacted LBRUT to say "It is not acceptable practice ... to choose to respond to request B by including it within an internal review of request A".
18. LBRUT replied the same day, saying "[LBRUT] responded to your Internal Review on 09/05/2024 and this [FOIA] request is now closed".

### **Scope of the cases**

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19. The complainant contacted the Commissioner on 10 April 2024, 8 and 9 May 2024 and 20 June 2024 to complain about the way requests 1, 3, 2 and 4 respectively had been handled (the complaint about request 3 was made before the complaint about request 2).

### **Request 1 (IC-300052-G2Z8)**

20. The complainant disagrees that LBRUT doesn't hold any project management documentation. They believe that LBRUT does hold relevant information.

### **Request 2 (IC-305634-L8K7)**

21. The complainant believes further information is held.
22. They're unhappy that LBRUT redacted information about estimated costs, under section 43.
23. They complained that LBRUT, in its internal review, "responded to a point that was NOT in my internal review request. It was actually filed as a separate request ...".

### **Request 3 (IC-305377-Y5Q5)**

24. The complainant disputes that section 22 applies.
25. They said "[LBRUT] has never stated that the results of this survey would be published". They also said they're not requesting an 'analysis report' of the survey, but the original results.
26. They told the Commissioner that the information eventually published by LBRUT "does NOT contain the full survey results".

### **Request 4 (IC-327841-D8P9)**

27. The complainant has complained that LBRUT didn't appropriately address their request, or their request for an internal review.
28. The Commissioner wrote to LBRUT for submissions on all four cases.
29. In response, LBRUT applied a new FOIA exemption, section 14(1), to all four requests. In the alternative, LBRUT maintains its original and internal review positions on each request. For IC-305377-Y5Q5, LBRUT also said that, having now published the requested information, it relies on section 21 (information accessible to applicant by other means).
30. Both LBRUT and the complainant consider that the requests fall under FOIA rather than the Environmental Information Regulations 2004. The Commissioner is also satisfied that FOIA is the relevant access regime – he notes the point made by LBRUT and the complainant that the requested information relates to internal works at Pools on the Park.

31. The Commissioner considers that the scope of this case is to decide, first, whether LBRUT is entitled to refuse to comply with the four requests, on the basis of section 14(1); he'll only consider LBRUT's alternative positions and exemptions if he determines that section 14(1) doesn't apply. The Commissioner will also consider procedural matters.

### **Reasons for decision**

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32. Section 14(1) of FOIA allows public authorities to refuse to comply with a request if it's vexatious.

33. 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.

34. As the Commissioner's detailed guidance<sup>1</sup> notes, four broad themes provide a useful structure to start analysing whether a request is vexatious (although they aren't a checklist, and aren't exhaustive):

- The burden on the public authority and its staff.
- The motive of the requester.
- The value or serious purpose of the request.
- Any harassment or distress of and to staff.

35. A useful starting point is to assess the value or serious purpose of the request, before considering the impact handling the request would have.

### **Value or serious purpose**

36. When considering value or serious purpose, the question is whether there's a public interest in disclosure. The requester's own private

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<sup>1</sup> <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/section-14-dealing-with-vexatious-requests/>

interests in the information carry little weight unless they coincide with a wider public interest.

37. LBRUT acknowledges a public interest in information about the Pools on the Park project, but argues this is met by LBRUT discussing its plans in public meetings, publishing information it already publishes about the project and having a page on its website with updates on the project.
38. LBRUT questions the value or serious purpose of the complainant's requests in relation to the project. It noted that the complainant "is aggrieved by the Pools on the Park health suite refurbishment project", but explained that the complainant's requests under information access legislation can't resolve their grievance.
39. The Commissioner notes that the complainant made four complaints in December 2023, two in January 2024 and one in March 2024, all relating to Pools on the Park. Having seen information about the complaints, the Commissioner considers that, as LBRUT told the complainant, they were all ultimately complaints about LBRUT's decision regarding the health suite.
40. The Commissioner's understanding is that LBRUT's decision of 7 November 2023 can only be overturned if successfully challenged in the courts. That's what LBRUT ultimately told the complainant in response to a number of their complaints referenced above.
41. The complainant has emphasised, to the Commissioner, their desire for transparency over the specific information in their requests.
42. They've also told the Commissioner that they aren't challenging LBRUT's decision of 7 November 2023 in the courts.
43. The Commissioner acknowledges general public interest considerations like transparency and accountability, in relation to the Pools on the Park project.
44. However, he considers that the complainant's requests on this topic are linked to their dissatisfaction with LBRUT's decision regarding the health suite.

45. Like LBRUT, the Commissioner questions the value or serious purpose of the request, if disclosure of the requested information wouldn't resolve the complainant's grievance; he also notes that the complainant isn't challenging LBRUT's decision of 7 November 2023 about the health suite in the courts.

### **Burden**

46. As the Commissioner's guidance notes, several factors are relevant considerations when assessing the burden of dealing with a request.

47. First the Commissioner has considered the number of requests. It's common for a potentially vexatious request to be the latest in a series of requests submitted by an individual. The greater the number of requests, the more likely it is that the latest request is vexatious. The collective burden of dealing with the requests may mean a tipping point has been reached.

48. The Commissioner's understanding is that the complainant's requests in relation to Pools on the Park began in 2022, although just two requests were made that year. The number of related requests increased, however, from November 2023. Three were made in November 2023; four in December 2023; one in January 2024; five in February 2024; six in March 2024; and one in April 2024.

49. Therefore, there were 20 requests relating to Pools on the Park, in just six months; most of the requests came in November – December 2023, and February – March 2024.

50. The Commissioner also notes that in December 2023, the complainant made four complaints relating to Pools on the Park, and two more in January 2024. Therefore, in the period leading up to the requests being considered in this decision notice, LBRUT was processing many items of complaint correspondence from the complainant, about the Pools on the Park project.

51. Another relevant factor is the pattern of requests. A public authority may become overwhelmed, if numerous requests are made in quick succession. Paragraphs 48-49 above show that in this instance, numerous requests **were** made in quick succession, shortly before (and including) the requests that are being considered in this decision notice.



52. Duration of requests is also relevant. As the Commissioner's guidance explains, public authorities may take into account the anticipated burden of future requests, when assessing burden.
53. LBRUT noted the history of requests from the complainant about Pools on the Park, and has expressed concerns that the requests "will continue into the future".
54. Paragraphs 48-49 show that, following the requests in February 2024, the complainant made six further requests in March 2024 for information about Pools on the Park; and that, following the request of 15 April 2024, the complainant made another request in October 2024.
55. Clearly, any concerns in February and April 2024 about the burden of future information requests from the complainant were legitimate.
56. The Commissioner considers that the burden of the complainant's requests is considerable; and that in this instance, burden is a weighty factor in favour of deeming the four requests of February and April 2024 vexatious.

### **Motive**

57. As the Commissioner's guidance on vexatious requests and motive explains, a public authority may only be able to work out the motive of the requester by referring to its previous interactions with them.
58. LBRUT considers that the complainant is using FOIA to air their grievances with LBRUT.
59. The complainant has argued to the Commissioner that the motive behind their requests is transparency.
60. However, it's clear from the complainant's own comments, eg in their complaint correspondence with LBRUT, that the complainant is dissatisfied with and seeks to fight LBRUT's decision on the health suite.
61. Ultimately the Commissioner considers that there's an element of attacking LBRUT, over a decision that the complainant is unhappy with.

### **Harassment or distress**

62. The Commissioner recognises that a request which is the latest in a series demonstrating obsessive behaviour can have the effect of harassing staff due to the collective burden the requests place on staff.

63. LBRUT has said:

“The frequent, voluminous and repetitious nature of the contact by complainant with [LBRUT] has the effect of harassing [LBRUT] staff due to the collective burden on [LBRUT] of responding to the complainant’s requests and contact”.

64. The Commissioner is prepared to recognise that LBRUT staff will have felt harassed at the time of the complainant’s requests of February and April 2024, given the points he’s noted above on the number, pattern and duration of requests, and the numerous complaints that the complainant made in December 2023 and January 2024 relating to Pools on the Park.

### **Balancing exercise**

65. The key question to consider, as objectively as possible, is whether the value and purpose of the requests are enough to justify their impact on the public authority.

66. The context and history of a request is often a major factor in determining whether it’s vexatious.

67. Where a requester has made a number of requests, they may all have a common theme, and stem from a specific concern or grievance of the requester. It’s clear that LBRUT considers this is true of the complainant’s requests, and based on the information available to him, the Commissioner agrees. The complainant has indicated their desire to “fight” LBRUT’s decision of 7 November 2023 regarding the health suite, even if they’ve claimed that their requests and complaints weren’t made with that aim.

68. The Commissioner considers that the impact of the complainant’s requests isn’t justified, given their limited value and purpose and their significant burden on LBRUT; and bearing in mind the context of complaints from the complainant on the subject of the Pools on the Park project.

69. He therefore determines that section 14(1) of FOIA is engaged and that LBRUT is entitled to refuse to comply with all four requests, on the basis of that exemption.

### **Procedural matters**

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70. LBRUT took longer than 20 working days to refuse to comply with the request in reliance on section 14(1) of FOIA. Consequently, the Commissioner finds that LBRUT breached section 17(5) of FOIA.

## **Right of appeal**

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71. 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)

72. 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.

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

**Daniel Kennedy**  
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