

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 November 2024

Public Authority: Thornton Curtis Parish Council
Address: 21 Hallam Close
Barrow-Upon-Humber
DN19 7FD

Decision (including any steps ordered)

1. The complainant requested information about a broken roundabout in a playing field. The Council relied on section 14(1) of FOIA (vexatious) to refuse the request.
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.
3. The Commissioner does not require any steps.

Request and response

4. On 22 February 2024, the complainant wrote to the public authority and requested information in the following terms:

"Please may you provide me all information relating to the broken roundabout in the playing field, This should include all communications between all PC members and any contractor or volunteer and should include those made in writing, by [email], on messaging platforms such as but not limited to WhatsApp, SMS text and any verbal [communications] relating to the information required, which comprises:

How and when the damage was discovered and by whom
How the cause of failure was determined and by whom
Why this was considered to be vandalism and by whom
Who reported the matter to the Police and why and when

By whom the decision to publish any information relating to the matter social media of any form was made and by whom the post content was authored and published?

Detail of any discussions related to responses on social media that the damage was not vandalism and had [existed] for some months

Furthermore, please provide all [communications] related to questions raised prior to the November 2023 PC meeting related to the roundabout. In addition, please provide evidence of all attempts to contact the named witnesses [name redacted] and [name redacted] and why the comments made by the Chair of the Parish Council at the meeting related, stated that the PCC was unaware when the [vandalism] occurred.

In [addition] can you please provide a copy of any risk assessment made regarding the construction and use of the roundabout as well as any method [statement] for the [construction] and any engineers calculations performed to determine the materials and design. Also please provide details of all safety inspections, including dates and by whom on the roundabout equipment from it's installation. Please provide the information requested as electronic documents, PDF, email, or screenshots in combination if required."

5. On 20 March 2024, the Council responded. It indicated that the request was being refused under section 14(1) of FOIA. A position which was maintained during its internal review.

Reasons for decision

Section 14(1) – vexatious requests

6. The following analysis considers whether the request was vexatious.
7. 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.
8. The word "vexatious" is not defined in FOIA. However, as the Commissioner's guidance on section 14(1)¹ states, it is established that section 14(1) is designed to protect public authorities by allowing them

¹ <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.

9. 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.
10. However, the ICO recognises that dealing with unreasonable 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.
11. 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. Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.
12. 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.
13. The four broad themes considered by the Upper Tribunal 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).
14. 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

² <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA" (paragraph 82).

The Council's view

15. The Council advised that it has received various offensive correspondences from the complainant in the past. Specifically in relation to the Chair of the Council, whom the complainant stated was managing the village in an "autocratic manner", had "bullied" other members of the village and was "in breach of several articles of the Code of Conduct."
16. The Council referred the Commissioner to the above, highlighting that such correspondences demonstrated the vexatious nature of correspondences received from the complainant, with the request being a further demand being placed on the Council by the complainant.
17. The Council outlined that, as a small parish Council, there is only a small number of staff and a set budget. The Council confirmed to the Commissioner that it only has a budget of £3000 a year. If it were required to respond to the complainant's request, it would be required to pay for at least 12-15 hours of overtime, which would equate to approximately £200. This conservative estimate would be a significant chunk of its annual precept.
18. As previously mentioned, the Council only has a limited budget and confirmed to the Commissioner that if it were required to comply with this request, it would likely result in money intended for the community being spent on this request, to the detriment of the wider local population.
19. The Council also advised that the complainant had previously asked it similar, yet much more condensed, questions by email. It explained that these matters were addressed during a town meeting, to which the complainant "accused the chair of lying".
20. The Council explained that, although the complainant has made a more robust request under FOIA, some of the questions are similar to those addressed in the town meeting. It advised that although a larger amount of work would be required to answer the full request, some parts of the request would receive similar answers to those provided in the town meeting. Due to this, the Council explained that if it were required to respond, it anticipated that these similar responses would result in the chair again being accused of lying.

The complainant's view

21. The Complainant provided the Commissioner with a copy of meeting minutes which advised that responding to the request would incur a cost due to overtime being required. The Council's minutes clearly stated that "it was felt that this money should be spent on facilities for the village and the request would therefore be refused."

The Commissioner's decision

22. 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.
23. Whilst the Commissioner is aware that it must be the request itself and not the complainant that is considered vexatious, he must also consider wider context and conduct of the complainant in order to have a full understanding of the burden being placed on a public authority when dealing with such matters.
24. Having considered the request and extracts provided by the Council, the Commissioner is satisfied that, due to previous negative and accusatory comments from the complainant, if the Council was required to respond to this request, it would likely result in members of staff feeling distressed.
25. He also considers that, in the event that the Council's response did not satisfy the complainant, this would likely lead to further negative or accusatory comments from the complainant and may result in staff members feeling harassed.
26. Although the Commissioner acknowledges the complainant's concerns over the Council's meeting minutes suggesting the request had been refused solely due to the cost in responding, he considers that this alone does not negate the application of section 14.
27. Whilst the Commissioner acknowledges that the cost being described by the Council would not exceed the appropriate limit set out in FOIA³, he does recognise that, as a parish Council, the Council has more limited resources compared to other public authorities. For example, a central government department will have a larger number of resources and staff available to respond to requests compared to the Council. Due to this, the Commissioner would expect a central government department to

³ [Requests where the cost of compliance exceeds the appropriate limit \(section 12\) | ICO](#)

accept a request which would impose a higher burden on a smaller public authority, such as the Council, but due to its size and resources the burden faced would be minimal.

28. Having considered the Council's position regarding the cost in responding, the Commissioner is satisfied that the cost in responding would be an additional source of the burden for the Council, rather than the sole burden. Having considered that the clerk works for only 2 hours per week and the limited budget, the Commissioner has determined that answering this request would place a disproportionate burden on the Council. This Council is one of the smallest public authorities covered by FOIA and, as such, would face greater pressures if responding to a large request than others.
29. Based on the above, the Commissioner believes that the Council was entitled to rely on section 14(1) of FOIA to refuse the request because it was vexatious on the grounds of a disproportionate burden relative to the size of the public authority.

Right of appeal

30. 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

31. 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.
32. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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