

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 November 2024

Public Authority: Coedpoeth Community Council
Address: The Old Carnegie Library Park Road
Coedpoeth
Wrexham
LL11 3TD

Decision (including any steps ordered)

1. The complainant has requested information relating to the financial records held by Coedpoeth Community Council (the council).
2. The Commissioner's decision is that the council was entitled to rely on section 14(1) (vexatious requests) of FOIA to refuse the request.
3. The Commissioner does not require further steps.

Request and response

4. The complainant has made a series of requests to the council as follows:

Request of 9 February 2024:

"May I ask you to confirm the amount of accrued Holliday[sic] Pay for 2022-2023 that is reflected in the 2023-2024 financial reports please, as requested".

Request of 12 February 2024

"In line with the provisions of the Freedom of Information Act, please could you supply me with the following information by Wednesday 13 March 2024. (20 working days)

Copies of invoices to support the payments listed below:

DATE PAID	SUPPLIER	PERIOD COVERED	NET AMOUNT
28/04/2023	UTILITY WAREHOUSE	MARCH 2023	407.79
28/04/2023	UTILITY WAREHOUSE	MARCH 2023	3377.07
28/04/2023	OPUS CORPORATE	MARCH 2023	1089.91
12/07/2023	JDHBS	INTERNAL AUDIT 2022-2023	465.00
12/07/2023	WCBC	01/04/2022 – 30/09/2022	3612.84
28/04/2023	ASH WASTE	MARCH 2023	144.71
28/04/2023	ASH WASTE	MARCH 2023	166.42
07/06/2023	MEGA ELECTRICAL	JAN-MAR 2023	3731.90
TOTAL			£12995.64

DATE PAID	SUPPLIER	PERIOD COVERED	NET AMOUNT
14/04/2023	NET WAGES	MARCH 2023	7145.54
05/05/2023	PAYE	MARCH 2023	1103.60
05/05/2023	EMPEES/EMPERS NIC	MARCH 2023	1064.66
11/04/2023	PAYE	FEBRUARY 2023	1099.20
11/04/2023	EMPEES/EMPERS NIC	FEBRUARY 2023	1093.57
TOTAL			£11606.57

A copy of the paper produced to document the arrears of 2022-2023 Holiday Pay that was presented by the Clerk at a meeting in May 2023. It would also be very helpful if it could be confirmed that all payments making up accrued Holiday Pay for 2022-2023 have now been paid, and confirm the total amount paid.

HOLIDAY PAY ACCRUAL

15/05/2023 PART PAID, PART C/FWB	HOLIDAY PAY	2022-2023	£8636.00
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Confirmation that the following payments, made in April and May 2023, but relating to payroll for the period up to 31 March 2023, did go through the Community Council Bank Account on the dates indicated, or alternatively, confirm when the payments were actually made:

WAGES ACCRUALS

It is with regret that I have to ask for this information via a formal Freedom of Information Request.

This information was originally requested in July 2023 when I attempted to exercise my rights as a member of the public to examine the books and records of Coedpoeth Community Council prior to external audit."

Request of 13 February 2024

"In line with the legislation may I request the following information which I believe may be covered by the Freedom of Information Act:

- Written, or digital copies of advice received from One Voice Wales, and/or, Audit Wales in connection with the legality, or otherwise of the 2022-2023 budget adopted in December 2022.
 - Written, or digital copies of advice received from Audit Wales, with regard to the treatment of accruals in the Year End Financial Statements to 31 March 2023.
 - Contemporaneous notes of telephone conversations in respect of the two issues above.
 - A copy of any communication directed to all Community Councillors explaining the advice given under 1, 2 or 3 above.
 - A statement that no records of any such advice are held by Coedpoeth Community Council."
5. The council provided an aggregated response to the complainant on 8 March 2024 addressing the current requests as well as other FOI requests that are not before the Commissioner for consideration.
 6. It stated that the complainant's requests for information linked to finances including invoices, holiday pay and dates of payments for the year 2023 to 2024 relate to information which the council was preparing for the annual Internal Audit and as such would be published via its website in due course.
 7. In relation to the complainant's request of 13 February, the council requested further clarification from the complainant seeking to establish what the requested information related to as it said that there is more than one topic which may be relevant. It also added that though telephone conversations were had with One Voice Wales and Audit Wales, as those conversations were neither recorded nor annotated it is unable to provide any recorded information in retrospect.

8. In its response, the council also raised concerns surrounding multiple FOI requests it had received which it considered to be time consuming and vexatious. It said the same information has been discussed openly at council meetings and between the complainant and the accountant and Clerk.
9. It also added that whilst it has taken on board the complainant's suggestions to improve its accounting methods and has acknowledged that the method which it previously employed was not correct, it considered the complainant's continuous attempts to find fault with its records as a personal vendetta.
10. On 18 March 2024 the complainant requested an internal review, in which they asked for all three requests to be reviewed.
11. The council provided its response to the internal review request on 30 May 2024. In its response it stated that the overwhelming majority of the information that has been requested was either available to the complainant as a former member of the council, or it has been supplied to them already in previous communications or during council meetings, or will be publicly available in future or that it was not currently available due to the timing of the request. It refused to comply with the requests on the basis that they are vexatious and relied on section 14(1) of FOIA as its basis for doing so.
12. The complainant submitted a further request to the council as follows:

Request of 29 April 2024

"I would like to request the following information:

- In connection with Wages and On-Costs paid in April 2024, but relating to hours worked in March 2024:
 - a) Gross Wages
 - b) Employers National Insurance and Pension contributions. (I do not request individual wages details, simply the totals, paid, in April in respect of hours worked in March 2024.)
- Confirmation of the dates, and amounts, of payment of PAYE, NIC and Pension deductions made in April 2024, or due for payment in May 2024, relating to earnings for the 2023-2024 Financial Year.
- Details of any Holiday Pay relating to the Financial Year 2023-2024 that may be payable in 2024-2025.

I would like you to provide the information by e-mail, please. Please contact me if you need me to clarify my request.”

13. On 4 June the council issued a section 17(6) letter and advised it would not respond to future requests as it had cited section 14 of FOIA in previous responses.

Scope of the case

14. The complainant originally contacted the Commissioner on 15 April 2024 to complain about the way their request for information had been handled. They informed the Commissioner that the council had failed to respond to the first three requests.
15. On 9 May 2024, the Commissioner wrote to the council asking it to provide a substantive response to the complainant's requests within 10 working days. The council advised the Commissioner that it had provided a response to the complainant's information request on 8 March 2024. In light of this the Commissioner advised the council to proceed with an internal review response as soon as possible.
16. The council issued its internal review response to the complainant on 30 May 2024 and cited section 14(1) of FOIA.
17. During the Commissioner's investigations, on 4 June 2024, the complainant raised another complaint regarding an information request they had submitted on 29 April 2024. Given the timing of this request and the reasons for refusal, the Commissioner considered it expedient to deal with this request alongside the previous three.
18. The Commissioner considers that the scope of his investigation is to determine whether the council was correct to rely on section 14 of FOIA to refuse to comply with each of the four requests.

Reasons for decision

Section 14 - vexatious requests

19. 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. There is no public interest test.

20. The term 'vexatious' is not defined in FOIA. The Commissioner's guidance¹ suggests that if a request is not patently vexatious, the key question the public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation, or distress.
21. FOIA gives individuals the 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.
22. The Upper Tribunal considered in some detail the issue of vexatious requests in the case of the Information Commissioner v Devon CC & Dransfield.² The Tribunal commented that vexatious could be defined as the "manifestly unjustified, inappropriate or improper use of a formal procedure."
23. In the Dransfield case, the Upper Tribunal also found it instructive to assess the question of whether a request is truly vexatious by considering four broad issues:
 - the burden imposed by the request (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.

The complainant's view

24. The Commissioner has noted that the complainant has previously been a councillor Coedpoeth Community Council." The Commissioner has given full consideration to their correspondence dated 18 April 2024 titled "Background to Complaint to Information Commissioner's Office". In this document the complainant has provided a chronology of his engagement with the council together with the dates of their various information requests to the council starting in September 2023.
25. They contend that the information requested would go a long way to providing evidence that external auditors had "failed to discover". They also state that they have maintained correspondence with Audit Wales to establish, if any evidence can be provided, they might consider re-

¹ [Dealing with vexatious requests \(section 14\) | ICO](#)

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

opening the 2022/2023 audit and potentially correcting the figures reported. They also believe that the people of Coedpoeth have a right to expect their community council to report "legally and accurately".

26. The complainant's view is that they are simply trying to get the truth which they believe is being suppressed. They believe that the council has been "untrue" about the information provided in response to their information requests. They state that if all the information was provided, they would not have made repeated requests for the same information.

The council's view

27. The council admitted that it did not fully respond to the complainant's information request of 12 February but maintains that it justified its decision why. It also maintains that the other information requests were responded to although there were some delays with its response.
28. The council explained that given the constant email contact (122 emails from the complainant) between the complainant and itself, it decided that it needed to protect its employee(s) as it was affecting their health. It provided additional information to the Commissioner which is not appropriate to document here.
29. The council explained that it was extremely difficult to keep up with the volume and method of delivery of communications from the complainant. It said that the complainant corresponded with the chair using different email accounts and sent correspondence through the council's online contact form, directly to the clerk and to the chair's county council email account. It said that this was confusing particularly as the information requested was duplicated and sent from different email sources to different email accounts.
30. The council noted that at the internal review stage it took the view that the complainant's requests were vexatious as it created an unjustified burden on its staff which was prohibiting them from delivering the core duties and objectives and impacted their wellbeing. It added that the requests were creating an unjustified cost burden given the wider context of the complainant's requests, not just under the FOIA regime.
31. When explaining the nature of the unjustified burden and cost, the council stated that it was managing an inherited deficit budget, dealing with several staff issues and the closure of the Parish Hall, together with raising funds to repair and reopen the Parish Hall, as well as handling several audit actions. It stated that during this period the complainant's continuous communications significantly drained its limited resources. By way of example, it said that audit cost significantly increased due to the amount of correspondence from the complainant.

32. It said that prior to its decision to no longer allow the complainant to communicate directly with a member of its staff, the council had received over 120 emails within a period of four months. The chair had also received over 110 emails. It added that this did not include emails sent to third parties such as the Public Services Ombudsman for Wales and the local Member of the Senedd as well as civic figures or organisations.
33. The council maintains that the decision it took was made in the best interest of its staff and future. It said that no attempt has ever been made to hide or lessen the challenges it faced, but constant harassment and repetition of matters already dealt with or being addressed cannot be allowed to continue.
34. The council has provided the Commissioner with an appendix containing other information about the complainant's relationship and contact with it. The Commissioner has considered this information in order to have a holistic view of the complainant's engagement with the council.

The Commissioner's decision

35. The Commissioner is keen to emphasize that in every case, it is the request itself that is vexatious and not the individual who submits it.
36. In reaching a decision on this case, the Commissioner has balanced the purpose and value of the request against the detrimental effect of responding to the request on the council.
37. The Commissioner recognises that there is value in promoting transparency and openness in local government. He understands that the community within the council's jurisdiction have a right to know how the council is handling its financial affairs and that the accurate image of the council's financial position is being represented by those who manage its affairs. The Commissioner has seen some of the council's audit reports which are publicly available, and considering the timing of the complainant's initial requests, understands why they were determined to obtain the information requested.
38. In the current case, the Commissioner has considered whether the complainant's persistent requests are as a result of the council's failure to deal appropriately with their request or that the council has indeed responded to their request.
39. The Commissioner is mindful that his investigations cover the complainant's request at paragraphs 4 to 13 above only. He has noted that when the complainant made their request of 9 February 2024 the council did not treat this as a new request or provide a response. In the council's view this was a follow-on request from the one submitted in January 2024.

40. The Commissioner recognises that the information purported to have been requested was not included in the complainant's request of 19 January 2024, nevertheless he would have expected the council to treat this as a new request. The Commissioner does not accept the council's explanation that the information had not been requested on 19 January and hence no information was provided. The Commissioner considers this to be a failure on the council's part.
41. The Commissioner notes that in this case the complainant is asking for information relating the council's financial statements/ budgets and audit information. By its own admission, the council agreed that the complainant's request of 12 February was not fully responded to. However, the council explained that the information was to be made available at a future date, and it was provided to the complainant sometime in July 2024. The Commissioner has been provided with email correspondence from the complainant dated 19 July 2024, acknowledging receipt of the information.
42. When the complainant raised their complaint with the Commissioner it was understood that the council had not provided a response to their requests. However, it transpired that the council provided an aggregated response on 8 March 2024 following which it issued a response to their internal review request of 18 March 2024. The Commissioner understands why delays and or the council's refusal to recognise and provide information to a request would encourage the complainant to submit additional requests.
43. From the evidence available to him, the Commissioner considers that the council has sought constructively to respond positively to previous requests and correspondence from the complainant about the subject matter. The Commissioner also understands that having been a councillor, some information would already be privy to the complainant, or through Community Council meetings and therefore, it would be of very little benefit to provide the same information again.
44. It is the Commissioner's view that given the volume of linked or repetitive queries submitted by the complainant in addition to their information requests, using different emails accounts and correspondence sent through the council's online contact form. Directly to the clerk and the chairs county council email account demonstrates a scattergun approach suggesting to the Commissioner an intention to disrupt. The Commissioner recognises that this is having a significant negative impact on the council.
45. The Commissioner has noted the council's concerns over staff welfare and the prolonged repetitive communications and he does not consider that it is appropriate for finite public resources to be further expended in this way.

46. The Commissioner is also of the view that there is a public interest in ensuring that the council's finances are accurate, but that this public interest is being generally met through the regular publication of the council's financial statements and audit information on its website. In considering the serious value and purpose of this request the Commissioner has considered that, in continuing to complain about matters which have already been dealt with, by both the council and external parties such as auditors, the complainant is showing an unreasonable persistence in their enquiries, and this reduces the argument for any serious value and purpose in the request.
47. Therefore, the Commissioner is satisfied that the burden on the council complying with the request in this case is disproportionate to the value of the request.
48. In the circumstances of this case, and based on the evidence provided, the Commissioner accepts that the request was vexatious. Therefore, the council was entitled to rely on section 14(1) of FOIA to refuse the request.

Right of appeal

49. 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

50. 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.
51. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Esi Mensah
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