

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 2 December 2024

**Public Authority:** Bournemouth, Christchurch & Poole Council  
**Address:** Civic Centre  
Bourne Avenue  
Bournemouth  
BH2 6DY

#### Decision (including any steps ordered)

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1. The complainant requested information about Bounce Back Challenge Fund grant awards. Bournemouth, Christchurch & Poole Council (the Council) deemed the request to be vexatious under section 14(1) of the FOIA and refused to respond to the request, relying on section 17(6) of the FOIA as the basis for doing so.
2. The Commissioner's decision is that the request was vexatious under section 14(1), and that the Council was entitled to rely on section 17(6) of FOIA to decline to issue a further refusal notice. The Commissioner does not require any steps to be taken.

#### Request and response

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3. On 22 April 2024 the complainant wrote to the Council and requested "Businesses that received a Bounce Back Challenge Fund grant had to submit a "Declaration of Final Spend" showing how the grant had been spent. I would like to request a copy of the final submission sent to the Economic Development Team by:
  - Adventure is Out There
  - Venator Capital Limited
  - Bournemouth Sevens Limited
  - Limetools Limited

Please include any evidence (such as supplier invoices) that were also provided to show how the grant was spent”.

4. The Council responded on 26 April 2024 and stated that it was refusing to respond to the request and referred to a previous internal review response dated 10 March 2023 in relation to an earlier request (reference FOI #8074).

### **Scope of the case**

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5. The complainant contacted the Commissioner on 3 June 2024 to complain about the way their request for information had been handled.
6. The scope of the Commissioner’s investigation into this complaint is to determine whether the Council was entitled to rely on section 17(6) of the FOIA as the basis for not issuing a refusal notice in this case.

### **Reasons for decision**

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#### **Sections 17(5) and 17(6) – vexatious requests**

7. Section 17(5) of FOIA requires a public authority that wishes to refuse a request as vexatious to issue a refusal notice, stating that fact within 20 working days.
8. However, section 17(6) of FOIA contains an exception to this rule. It states:

“Subsection 17(5) does not apply where

a) the public authority is relying on a claim that section 14 applies,

b) the authority has given the applicant a notice, in relation to a previous request for information, stating that it is relying on such a claim, and

c) it would in all the circumstances be unreasonable to expect the authority to serve a further notice under subsection (5) in relation to the current request”.

#### **The Council’s position**

9. The Council explained that the Bounce Back Challenge Fund (BBCF) is “a central government initiative launched to assist small businesses in the BCP area after the Covid Pandemic”. The complainant in this case

operates a small business and applied for a grant under the BBCF scheme.

10. The Council stated that it had previously refused an earlier request from the complainant in 2023 under section 14(1) of the FOIA. Its internal review response dated 10 March 2023 in relation to that request upheld the application of section 14(1), and advised the complainant that it would not respond to, or issue a refusal notice in respect of any request or follow up emails relating to the same or similar topic, ie the BBCF.
11. However, as a matter of courtesy, and in light of the time that had elapsed since March 2023, the Council advised that it did issue a response on 26 April 2024 confirming that it would not be issuing a refusal notice as it considered section 17(6) of the FOIA applied to the request of 22 April 2024.
12. The Council provided the Commissioner with background information relating to the history of correspondence and requests from the complainant, which date back to July 2021. It advised that, in reaching a decision concerning the request dated 22 April 2024, the Council determined that the complainant would continue to pursue matters relating to the BBCF. The Council does not consider it reasonable for it to expend further effort and resources in addressing matters relating to the subject matter, and any response would only serve to reopen issues which had already been comprehensively addressed.
13. Since July 2021, the Council advised that the complainant has made a number of unsubstantiated allegations concerning the governance and administration of the BBCF. These initially concerned the outcome of the complainant's own application for funding, and subsequently progressed to allegations of wrongdoing about the general governance of the scheme, and statements and actions of officers and councillors. Following that particular line of complaints and queries, the complainant then moved on to matters concerning the administration of the companies who had been successful in securing grants. The complainant considers that the Council had not awarded grants fairly, and is of the opinion that a number of companies who had been successful were not deserving of a grant.
14. Prior to the request which was the subject of the internal review dated 10 March 2023 (reference #8074), the Council advised that it had received seven requests for information concerning the BBCF. The majority of these requests produced voluminous follow up email correspondence because the complainant would not accept responses that the Council issued. As an example, the Council stated that, one particular request concerning the scoring process for the complainant's own grant application resulted in over 100 individual emails being received.

15. The Council advised that the complainant has also submitted "persistent complaints and emails" to its Chief Executive, senior officers and councillors regarding the BBCF. In addition, the complainant submitted a complaint through the Council's formal complaints process, which progressed to stage 2 and then resulted in a complaint being submitted to the Local Government Ombudsman (LGO). The LGO did not uphold the complaint alleging malpractice on the part of the Council concerning the BBCF awards and governance.
16. The Council advised that request reference #8074 "was generated from a previous request and repeated enquiries for a copy of a 'monitoring report'". The complainant had been advised that a report was being prepared and would be published, in accordance with the Council's obligations under the scheme. Despite being advised of this, the complainant continued to make repeated requests for a copy of the monitoring report directly to the Chief Executive, the Director of Economic Development and councillors. These communications were referred to the Council's Information Governance team. A refusal notice was issued in response and advised that, as the report would be published in due course, section 22 of the FOIA applied to the request. The monitoring report was published shortly after the internal review response to the request dated 10 March 2023.
17. Following publication of the monitoring report, the complainant wrote to the Chair of the Audit & Governance Committee at the time, attempting to reopen their grievances concerning the BBCF. The Chair responded advising that they were satisfied that appropriate monitoring and governance of the scheme had been undertaken.
18. The Council explained to the Commissioner that when considering the context and background of communications with the complainant, it considered that there was evidence of continued, unreasonable persistence on the part of the complainant to re-open questions and issues which had already been comprehensively addressed.
19. On reflection, and taking into account the background and history of contact with the complainant, the Council is of the view that it allowed matters to go on too long by continually engaging with the complainant through responding to FOIA requests and other communications. The Council believes that it should have applied the provisions of section 14(1) of the FOIA earlier than it did in order to protect its resources. However, the Council explained that the complainant operated a 'scatter gun' approach which included direct contact with individual officers who were responding in isolation trying to resolve matters. As such the Council struggled to control the escalating levels of correspondence .
20. The Council also pointed out that any engagement with the complainant and responses issued to try to resolve matters, generates further

questions, requests and internal review requests. This is despite officers providing detailed explanations and responses to the issues raised. The Council considers that the complainant has demonstrated a reluctance to accept any responses issued but instead submits follow-up questions and correspondence, using derogatory language, making unsubstantiated allegations of malpractice and harassment of officers. Responses that have been issued to the complainant have resulted in extensive follow up correspondence from the complainant.

21. The Council acknowledges that the request which is the subject of this notice was the first request it received specifically about the BBCF since its previous internal review response dated 10 March 2023. However, it explained that following the internal review response dated 10 March 2023, one month later the complainant contacted the Council requesting permission for their mobile business facility to be allowed to operate from a local park on an informal basis. When permission for this was refused, the complainant continued to pursue matters by directly contacting a number of officers between April and May 2023 asking the same question and dismissing responses that had previously been given. Once this approach had been exhausted, the complainant then began submitting FOIA requests concerning the Council's procurement policy and processes. A total of 15 requests and 9 internal review requests were received, along with hundreds of related emails concerning these matters.
22. In correspondence with the Council concerning procurement policies and practices the complainant stated that they felt victimised and implied that the Council was not adhering to proper processes for other businesses. The Council considers that there are many similarities in the complainants' approaches to issues concerning procurement practices as the BBCF fund which demonstrates persistence. The Council considers that the correspondence received from the complainant evidences a motive to challenge every procurement decision for catering opportunities and events.
23. The Council considers that the applicant has no respect for its obligations under FOIA and has ignored advice on making requests and a number of warnings that their requests were triggering aspects of section 14 of the FOIA.

### **The complainant's arguments**

24. In their complaint to the Commissioner, the complainant stated that their request was triggered by a notification they had received that one of the companies who had been awarded a BBCF grant "were late filing their accounts and a gazette notice has been issued for compulsory

strike-off". They referred to a meeting of the Council's Audit & Governance Committee on 3 February 2022<sup>1</sup>, where it was stated that:

"Regular measurement of the impact of grants on the local economy was expected from recipients and assurances were provided that this information would be captured and the economic impact and benefits reported back to the Council in due course."

25. The complainant stated that Dorset Growth Hub (DGH) was responsible for initially assessing applications under the BBCF but the Economic Development Team (EDT) changed their recommendation for around half of the 109 grants that were awarded. The complainant stated that DGH initially rejected the grant application for the company who were late filing their accounts, as referred to in paragraph 24 above, but EDT still awarded the company £70,000 in funding.
26. The complainant referred to statements made by the Council in a number of media articles<sup>2</sup> that the company concerned had spent the grant funds in accordance with the terms of the scheme and their application. However, the complainant believes that the accounts of the company concerned suggest that they may not have spent the grant awarded. The complainant suspects that this is the same for the majority of the companies who were awarded BBCF grants.

### **The Commissioner's conclusion**

27. The Commissioner accepts that section 17(6) exists to give public authorities some form of protection against those who continue to make information requests.
28. He is conscious that section 17(6) is not, and should not, be used as a 'blanket ban' on an individual exercising their rights under FOIA. Nevertheless, where a request exhibits the same features that caused a previous request to be refused as vexatious, it is likely that that request will also be vexatious.
29. The Commissioner is mindful that both the Council and the complainant are fully aware of the background and history leading up to this request. The Commissioner has carefully considered the information available to

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<sup>1</sup> <https://democracy.bpcouncil.gov.uk/documents/g5253/Printed%20minutes%2003rd-Feb-2022%2018.00%20Audit%20and%20Governance%20Committee.pdf?T=1>

<sup>2</sup> <https://www.bournemouthecho.co.uk/news/24715182.firm-awarded-70-bcp-council-goes-liquidation/>  
<https://www.bournemouthecho.co.uk/news/20142092.requirements-hurn-water-lagoon-project-grant-questioned/>

him, including the Council's submissions and the complainant's grounds of complaint in reaching his decision in this case.

30. The Commissioner acknowledges the context of the request and the complainant's sense of grievance concerning the administration and governance of the BBCF scheme. However, he is also conscious of the evidence provided by the Council that the complainant has made many requests for information about this matter, some of which have generated significant levels of follow up correspondence from the complainant.
31. The Commissioner has also taken into account the way that the complainant has pursued his grievances and information requests with the Council. The complainant's correspondence is routinely lengthy, filled with allegations that BBCF applications were not treated in a fair and just way and that Council officers have been untruthful, have lied and made misleading statements, and do not possess the necessary expertise and skills to carry out their roles.
32. Taking into account the Council's representations, the Commissioner also agrees that it is likely that compliance with the request would generate further follow up emails and/or further questions and requests. He attaches significant weight to the Council's argument about the impact on its resources as a result of the pattern of the complainant's behaviour in this case.
33. The Commissioner notes that the complainant has been corresponding with the Council about matters relating to the BBCF since July 2021. The Commissioner also notes that the complainant has made several complaints about the Council's management of the scheme, both internally and externally to the LGO. He is satisfied that the matters which resulted in this request have been fully considered by the Council and they have not been substantiated by the LGO. The complainant therefore appears to be attempting to 're-open' matters that have already been thoroughly considered, therefore diverting Council resources.
34. Whilst the Commissioner is prepared to accept that the complainant's early requests may have had a purpose and value to them, their ongoing behaviour since then and the frequency and the volume of the requests and follow up correspondence that they have continued to submit has led to a burden upon the Council which is now wholly disproportionate.
35. Taking into account the historic background of the request, including protracted and voluminous communication with various departments of the Council, the Commissioner is satisfied that the request of 22 April 2024 is a continuation of the same pattern of behaviour that caused the



complainant's previous request to be refused as vexatious. Requiring the Council to issue a fresh refusal notice, even if only to refuse the request as vexatious once again, would create yet more work for the Council and further waste its resources.

36. The Commissioner is therefore satisfied that the Council was entitled to rely on section 17(6) as it would have been unreasonable to expect it to issue a fresh refusal notice in the circumstances.



## **Right of appeal**

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37. 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)

38. 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.
39. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Joanne Edwards**  
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**SK9 5AF**