

Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice

Date: 17 December 2024

Public Authority: Derbyshire County Council
Address: County Hall
Matlock
DE4 3AG

Decision (including any steps ordered)

1. The complainant has made various requests for information about Traffic Regulation Orders and specific roads. Derbyshire County Council ("the Council") refused to comply with the requests on the basis that they were vexatious under section 14(1) (vexatious requests) of FOIA and regulation 12(4)(b) (manifestly unreasonable requests) of the EIR.
2. The Commissioner's decision is that the Council is entitled to apply section 14(1) of FOIA, and that where the requests seek environmental information, the Council is entitled to rely upon regulation 12(4)(b) of the EIR.
3. The Commissioner does not require further steps.

Request and response

4. On 13 February 2024, the complainant wrote to the Council and requested information in the following terms:

I request the following information on regulations and not what is considered as being correct.

1/ Regulation that combines a service road with a lay-by and I refer to the National Highways TROs which state - main highway, and any lay-

by, service road or bus stop. all being individual areas.

2/ Which lines "are required" on any rural lay-by.? Give way lines, or a single broken white line to 1-0-1-0 in TSRGD.?

3/ The cost of the TRO and all lines of various restrictions on the A632 lay-by since 2010 in individual sections. (deployment)?

4/ Confirm that the TPT advised the Council to remove the required regulation 801 sign from the above location and the reason.?

5/ The Council having now accepted that the restrictions are "unlawful" when will the required regulation 801 sign be reinstated and the unlawful lines removed.?

6/ Confirmation that the TRO for the A632 states. The A632 and also the A632 LAY-BY separate to the main A632 and NOT part of the highway.?

7/ Can you confirm that the Council held a meeting prior to the above TRO to discuss if it would be unlawful ?

8/ Can you confirm that the A632 location is in NEDDC and not the Borough and therefore defective and again unenforceable.?

9/ Supply a copy of the TRO for the A616 (and not the village) and the reason for reinstating of the required 801 signs but UNLAWFUL restrictions still not being removed.?

10/ Can you confirm that the County, Borough or area Councils have NO powers of restrictions on properties in isolation and is "OUTSIDE" of their operations.,as in your park smarter document,.

5. On 20 February 2024, the complainant wrote further to the Council and requested information in the following terms:

I request confirmation on the following.

Local traffic orders (procedures) SI 1999/614.

8.12 Primary object of parking control . "Road network" free flow of traffic.

10.6 Meet all requirements of law.

Section B. Any roads or areas to be excluded. (on application of powers and TROs)

10.3 Must have a duty under law to act fairly.

1.10 Must have clear understanding of what the law requires.

5.2 Restrictions that do not comply with regulations.

13/9 A map for "public and contractors", (Not claimed as the power of control) accurate and up to date.

Lines conform to those required under regulations that conform to 1-0-1-0 in schedule 6 of TRSGD on rural lay-bys.

That the 2004 TMA is complied with in all areas of the TMA (traffic management act).

The House of Commons document which states that parking restrictions can only be used on "specific roads" and not used as general parking enforcement.

Supply a copy of the TRO for the A616 and the date of publication.

When will the unlawful restrictions be removed from the A616.
Can you confirm or otherwise all of the above is complied with by the Council and all restrictions by the Council are lawful.

6. The Council responded on 16 April 2024. It disclosed information (a "2016 Consolidation Order").
7. Following an internal review the Council wrote to the complainant on 17 June 2024. It explained that it considered the requests to be vexatious and refused to comply with them under section 14(1) of FOIA and regulation 12(4)(b) of the EIR. The Council also explained that no further information was held beyond that already provided in response to earlier requests.

Scope of the case

8. The complainant contacted the Commissioner on 24 June 2024 to complain about the way their request for information had been handled, and specifically that the Council held further information beyond that disclosed (the "2016 Consolidation Order").
9. However, the Council had issued an internal review outcome on 17 June 2024, in which it stated that it considered the requests to be vexatious under the FOIA and EIR. The ICO informed the complainant that the determination on this case would therefore be limited to considering the Council's current position that the requests were vexatious.
10. The following analysis covers whether the Council is entitled to rely upon section 14(1) of FOIA and regulation 12(4)(b) of the EIR to refuse to comply with the requests as vexatious.

Reasons for decision

Section 14(1) of the FOIA – Vexatious requests Regulation 12(4)(b) of the EIR - Manifestly unreasonable requests

11. Section 14(1) of FOIA states that:

Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.

12. Regulation 12(4)(b) of the EIR states that:

For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that—

- (b) the request for information is manifestly unreasonable;
13. The Commissioner recognises that, on occasion, there is no material difference between a request that is vexatious under section 14(1) of FOIA and a request that is manifestly unreasonable on vexatious grounds under regulation 12(4)(b) of the EIR. The Commissioner has therefore considered the extent to which the requests could be considered vexatious.
 14. The Commissioner has published guidance on vexatious requests¹. As discussed in the Commissioner's guidance, the relevant consideration is whether the request itself is vexatious, rather than the individual submitting it. Sometimes, it will be obvious when requests are vexatious, but sometimes it may not. In such cases, it should be considered whether the request would be likely to cause a disproportionate or unjustified level of disruption, irritation, or distress to the public authority. This negative impact must then be considered against the purpose and public value of the request. A public authority can also consider the context of the request and the history of its relationship with the requester when this is relevant.
 15. While section 14(1) of FOIA effectively removes the duty to comply with a request, regulation 12(4)(b) of the EIR only provides an exception. As such the EIR explicitly requires a public authority to apply a public interest test (in accordance with regulation 12(1)(b)) before deciding whether to maintain the exception. The Commissioner accepts that public interest factors, such as proportionality and the value of the request, will have already been considered by a public authority in deciding whether to engage the exception, and that a public authority is likely to be able to "carry through" the relevant considerations into the public interest test. However, regulation 12(2) of the EIR specifically states that a public authority must apply a presumption in favour of disclosure. In effect, this means that the exception can only be maintained if the public interest in refusing the request outweighs the public interest in responding.

The Council's position

16. The Council has argued to the Commissioner that it considers the requests intrinsically relate to a long running grievance held by the

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

complainant about a PCN that they received in 2017, and a subsequent appeal to the Traffic Penalty Tribunal, which upheld the PCN.

17. The Council has argued that between 2017 and June 2022 it has records of approximately 35 information requests being received from the complainant, with further requests being submitted from June 2022 onwards. Many of these requests have related to the section of the road where the PCN was issued, specific Council officers, and Traffic Regulation Orders.
18. To illustrate this, the Council has provided a summary of five information requests received from the complainant between 1 February 2020 and 23 March 2021, all of which appear to relate to these matters, and to which responses and internal reviews were provided by the Council.
19. In addition to these requests, the Council has received a high volume of complaints and correspondence from the complainant relating to the same matters, in which the complainant has directed abusive language and unsubstantiated accusations against the Council and its officers – including a specific officer who was involved in the appeal hearing for the PCN. The Council has explained that since 2022 the complainant has been designated as a persistent complainant, and subject to that process.
20. The Council considers that the frequent and overlapping information requests on this matter have now reached a stage where they represent an improper use of the formal access to information procedure, and that compliance with the requests would impose a burden that is not justified any public interest. The Council argues that it has previously sought to provide all relevant recorded information, or else provide answers to questions, in response to the information requests and wider correspondence in order to draw matters to a satisfactory conclusion for the complainant, but that this has not been successful.

The Commissioner's conclusion

21. The Commissioner has reviewed the submissions received by both parties, as well as the two information requests which are the subject of this decision.
22. In particular, the Commissioner perceives from the complainant's own submissions, that the requests in this case are connected with his concerns about the lawfulness of TROs, signage on relevant roads, and the Council's handling of wider matters - including that specific officers have committed perjury at the Traffic Penalty Tribunal.

23. The evidence available to the Commissioner therefore suggests that the two information requests are intrinsically related to the same substantive matter as those information requests made by the complainant from 2017 onwards, following an unsuccessful appeal against a PCN.
24. Having considered an example of the complainant's previous requests, and the Council's handling of them, there is no compelling evidence to suggest that the Council has not sought to engage and provide the complainant with relevant information since 2017.
25. The Commissioner also notes that he has considered, in a number of decision notices, the Council's handling of previous requests made by the complainant. These include:
 - IC-38863-G2D9², issued on 8 December 2020, which found that the Council has disclosed all information in respect of specific TROs.
 - IC-56675-Q7P3³, issued on 24 August 2021, which found that the Council was entitled to refuse a request for TRO mapping data on the grounds of cost, and had otherwise provided advice and assistance to the complainant.
 - IC-162308-C7J5⁴, which found that the Council did not hold specific information in respect of a mapping portal.
26. Having noted these prior decisions, there is no evidence available to the Commissioner that the Council has failed to respond to the complainant's previous requests, or otherwise provide that information which it is able to. The Commissioner also notes that whilst decision notice IC-56675-Q7P3 related to regulation 12(4)(b) on the grounds of cost (and not whether the request was vexatious), the decision highlighted the long running nature of the complainant's contact with the Council, and its origin in the PCN and related appeal to the Traffic Penalty Tribunal.
27. There is also no evidence available to the Commissioner that suggests that the complainant has not been directed to the necessary routes of appeal for his concerns, and the Commissioner understands that the

² <https://ico.org.uk/media/action-weve-taken/decision-notices/2020/2618914/ic-38863-g2d9.pdf>

³ <https://ico.org.uk/media/action-weve-taken/decision-notices/2021/4018395/ic-56675-q7p3.pdf>

⁴ <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4022283/ic-162308-c7j5.pdf>

complainant has also been advised by the police of how to proceed in respect of any civil action that they wish to pursue.

28. Having considered the above, the Commissioner is satisfied by the Council's arguments that the requests in this case have been made by the complainant to force continued engagement on matters that the Council considers to have been addressed. There is no evidence available to the Commissioner that suggests there is a compelling public interest, such as a failure by the Council to respond appropriately to prior requests, or of the Council and its officers acting improperly, to justify the burden that complying with the requests would cause.
29. In respect of that sought information which is environmental (and therefore falls under the EIR, and not the FOIA) the Commissioner recognises that there is a presumption in disclosure. However, the context that these requests have been made in strongly suggest to the Commissioner that they have been not to gain information for public benefit, but to force continued engagement by the Council on the substantive matter, and otherwise place burden upon it. In this context, the Commissioner does not consider that there is an equal or greater public interest in these requests being complied with.
30. The Commissioner has therefore concluded that the Council's application of section 14(1) of FOIA was correct, and that for those requests which are for environmental information, it is entitled to rely upon regulation 12(4)(b) of the EIR.

Right of appeal

31. 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

32. 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.
33. 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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