

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 December 2014

Public Authority: Somerset County Council

Address: County Hall
Taunton
Somerset
TA1 4DY

Decision (including any steps ordered)

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1. The complainant requested information on the registration service at Somerset County Council ("the Council").
 2. The Council has refused to provide the requested information relying on section 14 (1) of the FOIA.
 3. The Commissioner's decision is that the Council has correctly applied section 14(1)
 4. The Commissioner does not require the public authority to take any steps to ensure compliance with the legislation.

Request and response

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5. On 24 March 2014, the complainant wrote to the Council and requested information in the following terms:

"1. On 23 August 2013 Somerset Records Manager wrote a letter confirming that she had carried out an investigation into the wrongful destruction of financial records relating to the redundancy of Registration Officers in February 2011.

2. Would you please provide a copy of that report."

6. The complainant made four further requests, as set out in Annex 1, between 26 March and 14 April 2014. Some of these requests contained multiple items and all related to the provision of the Council's registration service and expenses claimed by registration staff.
7. The Council responded on 1 May 2014 it stated that it considered the request set out in paragraph 5, along with the further requests to be vexatious.
8. Following an internal review the Council wrote to the complainant on 29 May 2014 upholding its section 14(1) determination. Notwithstanding this the Council, in effect, responded to the request in paragraph 5 because it stated in the review that:

"No such report has been produced by the Council."

Scope of the case

9. The complainant contacted the Commissioner on 10 June 2014 to complain about the way his request for information had been handled. He provided a detailed consideration of the Council's internal review and his opinion on the operation of the Council's registration service. He asked the Commissioner to determine whether:

"Section 14 is being properly applied on this occasion and not another reason to delay the publication of embarrassing information into the public domain."

10. The Commissioner considers the scope of this case to be whether the Council was correct in its application of section 14(1) to all the requests.

Reasons for decision

11. Section 14(1) states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious
12. The term "vexatious" is not defined in the FOIA. The Upper Tribunal considered the issue of vexatious requests in the recent case of *The Information Commissioner and Devon County Council vs Mr Alan Dransfield (GIA/3037/2011)* and concluded that the term could be defined as "manifestly unjustified, inappropriate or improper use of a formal procedure."

13. The Dransfield case identified four factors that are likely to be present in vexatious requests:

- the burden imposed by the request (on the public authority and its staff)
- the motive of the requester
- harassment or distress caused to staff
- the value or serious purpose of the request

Notwithstanding these indicators, all the circumstances of the case such as the background and history of the request can be considered in reaching a judgement as to whether a request is vexatious.

14. The Upper Tribunal decision referenced above established the concepts of 'proportionality' and 'justification' as central to any consideration of whether a request is vexatious. The Commissioner considers that the key question to ask in consideration of whether a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. Where this is not clear the Commissioner considers that a public authority should weigh the impact on the authority of complying with the request and balance this against the purpose and value of the request. In doing this, public authorities will inevitably need to take into account the wider factors such as the background and history of the request.

15. The Council and the complainant have described in detail the background and history to the request, which dates back to May 2012.

Disproportionate or unjustified level of disruption, irritation or distress.

16. The Council has explained to the Commissioner that it considers that the requests are vexatious when considering the history of its association with the complainant. It went on to explain that since joining the Council's registration service as an employee the complainant formally requested information about the registration service, submitting eleven requests for information between 11 May 2012 and 13 December 2013.

17. The complainant explained that he used FOIA requests to request information at this time as his manager was not forthcoming in providing the information he required.

18. The complainant made clear to the Commissioner his dissatisfaction and concerns with the restructure and operation of the registration service. The Commissioner explained that these were matters outside his role as regulator of the FOIA. However, he is aware that in raising these 'issues'

with staff at the Council an enduring pattern of disruption was created outside of the complainant's FOIA requests.

19. The Council considers that the effort expended in responding to the complainant placed a strain on the limited resources of the Council and in particular the registration service. It considers that its resources could be more effectively used in service delivery. The Council stated that the progress of the restructuring process had been delayed as a result of the diversion of staff resource in the registration service to deal with the complainant's requests for information.
20. The Commissioner notes the complex relationship between the complainant and the Council which involves matters outside the role of the FOIA. The Commissioner accepts that disruption and the distress of staff is a significant factor in the background to the complainant's requests which can be taken into account.

Unreasonable persistence

21. The Council explained to the Commissioner that it had offered particular assistance and advice to the complainant outside of the FOIA which it considered had "effectively slowed down the spate of formal information requests received from [the complainant], but only for a period of a few months."
22. The Commissioner accepts that initially the complainant's intentions, to some extent, may have been public spirited in sourcing information to provide his view on the restructure. However, the sequence of events impacting on the complainant during the second half of 2013 appears to have led to the rapid succession of seven requests within 16 working days in pursuance of his personal concerns.
23. The Commissioner considers that the complainant has demonstrated a pattern of behaviour which suggests that he is unlikely to be satisfied by a response from the Council. One response leads to another request concerning the registration service. The Commissioner considers this indicates a misuse of the FOIA process for the purpose of furthering personal grievances and accepts that officers dealing with the complainant's correspondence may be distressed and frustrated by the difficulty in achieving closure to the requests.
24. The request set out in paragraph 5 relates to an on-going matter raised by the complainant in respect of the cost of the redundancy of Registration Officers in February 2011. The Council has explained to the Commissioner that it advised the complainant that some information relating to the request had been destroyed. The complainant requested an investigation into the destruction which was subsequently undertaken

by the Council. The results of the investigation were provided to the complainant on 23 August 2013. On 28 August 2013, the complainant requested further information on the destruction of the information and details of any disciplinary action taken by the Council. The Council responded on 30 August 2013. Some seven months later the complainant returned to the same matter with the request in paragraph 5. The Council considered this to be unjustified persistence in returning to an issue which had been fully addressed.

Purpose and value of the requests

25. The Commissioner acknowledges the complainant's opinion that: "The public, taxpayers and councillors were being misled by the Registration Service management."
26. The complainant appears to justify the purpose and value of his requests as information in the public interest. He appears to consider that the Council is disingenuous in its handling of his requests. However, the Commissioner has found no evidence to support this point.
27. The Council has stated that it considers that four of the seven requests received between 21 March 2014 and 14 April 2014 relate directly to one specific officer. The officer was successful in her application for a post in Registration Services when the complainant was unsuccessful. The complainant made clear to the Council his opinions in respect of this appointment and provided a dossier to support his assertions. The Council considers the targeting of the requests indicates a personal grudge held by the complainant against the particular officer.
28. The complainant has told the Commissioner that:

"No individual by appointment or name is mentioned in any of my requests that could be considered a personal grudge."
29. Notwithstanding the fact that the particular officer is not named in the complainant's requests, the information requested, specifically in four of the requests is directly relevant to a specific officer's circumstances. At the time of the requests the Council was already aware of the complainant's pending legal claims which also involved the particular officer.
30. The Commissioner considers that the requests clearly target matters pertaining to the complainant's personal circumstances and any public interest in responses to the requests is limited.

Conclusion

31. It is clear to the Commissioner that the complainant is not satisfied with the Council and how it conducts itself. He understands that the complainant has his reasons for pursuing the Council, which may to some extent have some public interest in the operation and funding of the Council. However, the Commissioner recognises that if the Council responded to the request(s) in this case the complainant is unlikely to be satisfied and would more than likely continue to make further requests about Registration Services. This would lead to the continuation of the burden already placed on the Council.
32. After considering the arguments put forward by both the complainant and the Council, together with the context in which the request was made the Commissioner's decision is that the request is vexatious. The Commissioner considers that it is reasonable for the Council to take steps to limit the amount of resources it spends on dealing with the complainant's requests. Consequently the Commissioner is satisfied that the Council has correctly relied on section 14(1).

Right of appeal

33. 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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

34. 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.
35. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Gerrard Tracey
Principal Adviser
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex 1

The complainant wrote to the Council with seven separate requests during the period 21 March – 14 April 2014. The request of 21 March 2014 and the first of the requests of 24 March 2014 were responded to before the Council determined that the second request of 24 March 2014 and the requests subsequent to that were vexatious.

The seven requests are as follows:

21.03.2014

- "1. How many employees does the County Council have?
2. How many have been dismissed for discipline reasons in the past five years, please break down by year.
3. How many have been dismissed for failing to comply with Council 4C charter?"

24.03.2014

1. "The Council has an allowance called a Lodging Allowance. Would you please provide a copy of the regulations and rules that govern the issue/granting of this allowance.
2. Would you please provide the current value of this allowance?
3. Please state how many times this allowance has been granted in the past 5 years to:
- (a) Employees who have joined the council from outside Somerset.
- (b) Employees who have joined the council from within Somerset
- (c) Employees on promotion or transfer."

24.03.2014

- "1. On 23 August 2013 Somerset Records Manager wrote a letter confirming that she had carried out an investigation into the wrongful destruction of financial records relating to the redundancy of Registration Officers in February 2011.
2. Would you please provide a copy of that report."

26.03.2014

"1. Somerset Registration Service carries out marriage ceremonies at various locations around Somerset i.e. Hestercombe House and the Cleve Hotel Wellington to name two. These are known as Approved Premises.

2. Would you please confirm how many Registration Officers /Superintendent Registrars /Deputy Superintendent Registrars have travelled to any Approved Premises in Somerset from any Registration office in Somerset by public transport, i.e. taxis or local buses, between the period 1 Jan 2011 and 31 Dec 2013."

03.04.2014

"The public has a right to know how public officials spend taxpayers' money when on official business as demonstrated in the MP's expenses case.

Would you please provide the expenses claimed by the following County Council officers:

1. The Registration Service has three officers known as Registration Officer Managers would you please provide their expense claims for the period 1 September 2013 and 31 March 2014.

2. The Registration Service Operations Manager's expense claims for the period 1 April 2013 and 31 March 2014.

3. The Council has a Director titled 'Group Director Traded Services' would you please provide the expenses claimed from April 2013 to March 2014 by this officer.

4. The Council has a Director titled 'Economic and Community Infrastructure Director' would you please provided[sic] the expenses claimed by this officer during the period 1 April 2013 and 31 March 2014,"

14.04.2014

"During the period September to December 2013 a Registration Officer Manager worked on what the Registration Service describes as a 'mobilisation of a transformation project'. Would you please provide a written copy of this transformation project and its resultant impact on Registration Service and the population of Somerset."

14.04.2014

"During the period September to December a Registration Officer Manager embarked on a series of risk assessment for Health and Safety matters on

behalf of the Registration Service. Would you please provide details of all these assessments and the qualification that permitted the Registration Officer Manager to conduct these assessments.”