

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 19 January 2015

**Public Authority:** Bridgend County Borough Council  
**Address:** Civic Offices  
Angel Street  
Bridgend  
CF31 4WB

#### **Decision (including any steps ordered)**

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1. The complainant requested a copy of the terms of the final lease for a particular property. Bridgend County Borough Council ('the Council') refused the request under section 14(1) as it considered it to be vexatious. The Commissioner's decision is that the Council has correctly applied section 14(1) of the FOIA to the request. He does not require any steps to be taken.

#### **Request and response**

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2. On 24 September 2014 the complainant wrote to the Council regarding a particular property and requested information in the following terms:  
  
"Please provide me with a copy of all the terms of the final lease [name redacted] and BCBC agreed to. I accept redaction is necessary, however if the financial input from UPRN 80019 (including taxes) is a matter for public record, surely it cannot be redacted? I have no interest in [name redacted]'s details".
3. The Council responded on 29 September 2014 and stated that it was refusing the request under section 14(1) of the FOIA as it considered the request to be vexatious.
4. On 30 September 2014 the complainant wrote back to the Council and requested an internal review of the Council's handling of the request.

5. The Council provided the outcome of its internal review on 1 October 2014 and upheld its decision that section 14(1) of the FOIA applied as the request was vexatious.

## **Scope of the case**

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6. The complainant contacted the Commissioner on 10 October 2014 to complain about the way his request for information had been handled.
7. The Commissioner considers this complaint to be whether the Council correctly applied section 14(1) to the request of 24 September 2014.

## **Reasons for decision**

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### **Section 14 – Vexatious requests**

8. 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. There is no public interest test.
9. The term 'vexatious' is not defined in the legislation. In *Information Commissioner vs Devon County Council & Dransfield*<sup>1</sup>, the Upper Tribunal took the view that the ordinary dictionary definition of the word vexatious is only of limited use, because the question of whether a request is vexatious ultimately depends upon the circumstances surrounding that request. The Tribunal concluded that 'vexatious' could be defined as the "...manifestly unjustified, inappropriate or improper use of a formal procedure" (paragraph 27). The decision clearly establishes that the concepts of 'proportionality' and 'justification' are central to any consideration of whether a request is vexatious.
10. 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: (1) the burden imposed by the request (on the public and its staff); (2) the motive of the requester; (3) the value or serious purpose of the request; and (4) any harassment or distress of and to staff. The Upper Tribunal did, however, also caution that these considerations were not meant to be exhaustive. Rather, it stressed the

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<sup>1</sup> UKUT 440 (AAC) (28 January 2013)

"importance of adopting a holistic and broad approach to the determination of whether a request is vexatious or not, emphasising the attributes of manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious requests" (paragraph 45).

11. The Commissioner has identified a number of "indicators" which may be useful in identifying vexatious requests. These are set out in his published guidance on vexatious requests<sup>2</sup>. The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of a case will need to be considered in reaching a judgement as to whether a request is vexatious.
12. The Commissioner has therefore considered whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress in relation to the serious purpose and value of the request.

### **The Council's position**

13. The Council stated that there has been a dispute between the complainant and the Council which has resulted in frequent requests and persistent correspondence over the last two years, despite disclosures made by the Council and explanations it has provided. The Council accepts that the request of 25 September 2014, on its own, is simple and not vexatious in isolation. However, the Council's experience in dealing with contacts from the complainant suggests that it is highly likely to lead to further correspondence, requests and complaints.
14. The Council provided the Commissioner with background information about the context and history relating to the request. The request relates to a property for which the complainant entered into a lease with the Council in 2005. Matters relating to the property were the subject of extensive litigation between the complainant and the Council during the period 2006 to 2012, which included a number of court hearings and various court orders being made.
15. The Council is relying on a number of indicators in support of its view that the request in this case is vexatious.

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<sup>2</sup> [http://www.ico.org.uk/~media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/dealing-with-vexatious-requests.ashx](http://www.ico.org.uk/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx)

## **Burden on the authority**

16. The Council provided the Commissioner with a summary of the information requests and other correspondence received from the complainant. All of the correspondence broadly relates to matters associated with the lease and the action taken by the Council in relation to the lease. The summary shows that in 2012 the complainant made 10 information requests, 16 in 2013 and 3 in 2014. The information requests comprise a mixture of FOIA requests and requests for his own personal data under section 7 of the Data Protection Act 1998 ('the DPA'). Some of the information requests comprised a number of separate requests.
17. In the majority of cases, the Council confirmed that the information requested was provided. However, the Council refused some requests relating to names, job titles and qualifications of certain officers under section 40(2) of the FOIA. In addition, some requests were refused under section 40(1) of the FOIA and the information provided under the DPA as it constituted the complainant's own personal data. One request was refused as compliance would exceed the appropriate limit under section 12 of the FOIA. One request in February 2012, relating to the qualifications and job title of a named Council officer, was refused under section 14 of the FOIA as it was considered to be vexatious. The Council also withheld some of the information requested (under both FOIA and DPA) as it was subject to legal professional privilege.
18. The evidence provided by the Council shows that, in addition to information requests, the complainant also sent around 31 other items of correspondence since 2012. The Council has treated these contacts as general correspondence and responded in its normal course of business. Some of the items of correspondence constitute complaints and were handled in accordance with the Council's complaints procedure.
19. The Council is of the view that it has taken a pragmatic approach with regard to dealing with contacts from the complainant. However, it contends that dealing with the requests and other correspondence from the complainant has placed a significant burden on its resources and has posed a significant distraction from its core functions.
20. The Council provided the Commissioner with a copy of a letter it sent to the complainant on 12 September 2013. This letter referred to correspondence the Council had received from the complainant between 1 August 2013 and 10 September 2013, including four information requests and five other items of correspondence. Some items of correspondence were circulated to the First Minister, the Chief Executive, the Leader of the Council, various Councillors and other Council officers. The letter confirmed that the Council would comply with

its obligations under the relevant legislation but expressed concern at the "significant burden" that the frequent correspondence was placing on its resources. The letter also explained that copying correspondence to different parts of the organisation presented a risk that the complainant would not receive "a unified response". As such, the Council proposed a single point of contact that the complainant could use for any future correspondence.

21. The Council also referred to the following statements and comments made by the complainant in support of its view that dealing with the complainant's requests and correspondence has placed a significant burden on its resources:

"My apologies for not driving this point home, but had you deployed s16 of the FOIA Act 2000, clarity would have annulled the ambiguity of my request...please provide me with every transaction, between myself and the Authority in machine readable format. And please don't pretend 'Mrs Beaton' will take over 18 hours to pony up the info; by blowing dust off and thumbing through copious paper copies, spread far and wide". (9 October 2014)

"I've told you (the Authority) before that I am not au fait with computers, so if at all possible could one of your IT 'peeps' send me a file where each email is sequential to GMT. Say 6 mins work?" (27 September 2014)

"The reason for making this request is borne from my own ineptitude; somehow I have managed to delete a number of email transactions between ourselves". (2 October 2014)

"The burden on resources that concerns you will be easily and efficiently lightened by the compliance the Authority now promises me. Also, may I suggest that this case is pro-actively managed by someone suitably qualified and remunerated to monitor such matters". (20 September 2013)

"So that I will understand the Data you are obliged to provide me with, against each entry please explain the meaning of the statement for example, 'put on itinerary' or 'account suspended'; otherwise to me, the data will be unintelligible". (3 September 2013)

### **Abusive or aggressive language**

22. The Council considers that some of the statements and comments made go beyond the level of criticisms that the Council or its staff should reasonably be expected to receive. The Council provided the Commissioner with a bundle of correspondence received from the complainant to evidence its position. It would be inappropriate for the

Commissioner to quote in full some of the comments made by the complainant, as referred to by the Council, within this notice. However, some examples (which have been redacted) include:

"[redacted]. If you continue to [redacted] and not send me legally requested information, held on the Databases we have provided you with, within day [sic], we will have words. I have had enough of your lacklustre department in this matter". (19 August 2013).

"Considering my tenacity in overcoming your [redacted]...please show me some dispensation and provide the requested documents within 5 days; after all the prolific data systems and expensive operators we provide you with, are there because of the FOI Act and our need to know". (25 September 2014)

"or we can have [name redacted] bent over the photocopier for three hours a day, which appears to be [name redacted]'s chosen position?" (9 September 2013)

"Now that I have fingered their [the Council's] internal mechanism to exhaustion, they recommend an external". (30 July 2013)

"You lied to me. In my mind you are nothing but a spineless coward". (9 October 2014)

23. The letter that the Council sent to the complainant dated 12 September 2013 (as referred to in paragraphs 23 and 24 above) also made reference to the language, tone used by the complainant. The letter stated that:

"I must raise with you my further concern in relation to the lack of temperance demonstrated within some of your communications. In accordance with the Authority's Complaints Policy, I would remind you that we believe that whilst all complainants have the right to be heard, understood and respected, we also consider that our members of staff have the same rights. We therefore expect you to be polite and courteous in your dealings with us. We will not tolerate aggressive or abusive behaviour, unreasonable demands or unreasonable persistence. I must leave you to consider those issues with your own legal advice but would make it clear to you that I will not continue to accept without action this kind of behaviour and would support any member of staff who wished to take action. I encourage you to consider your comments in future and maintain a professional stance when dealing with the Authority and individuals".

Despite sending this letter, the Council stated that the complainant continued to use aggressive and abusive language in his communications.

## Personal Grudges

24. The Council provided the Commissioner with a copy of a note of a telephone call from the complainant in November 2013. During this conversation, the complainant called one officer "a fool" and referred to another officer as "incompetent". The complainant advised that he knew where both the officers referred to lived and said that he would visit their homes to discuss the matter with them. The Council officer who dealt with the call advised the complainant not to make such visits as it could be construed as threatening behaviour. In light of the history of contact with the complainant, this call resulted in the Council reporting the matter to the police.
25. The complainant subsequently reported the two officers to Bridgend Police's Criminal Investigation Department for perverting the course of justice. This led to the police attending Council offices to review files held relating to the matter. The police made three attempts to meet with the complainant to obtain evidence he alleged he had but he cancelled all three appointments and the police subsequently dropped the case. This matter caused considerable stress to one of the Council officers at the centre of the allegations and resulted in the police advising her that she could make a complaint of harassment if she wished.
26. The Council referred to emails which the complainant had sent to one particular officer which included the following comments/statements:

"Could you please confirm that on that day, attesting by signature, you acted wilfully?" (19 January 2014)

"Dated the 27<sup>th</sup> of January 2012 you sealed your witness statement at Bridgend County Court. You deliberately failed to provide me with the same until four days after the hearing". (1 November 2013)

"...what would prevent me offering concise comparisons relating to the market value, mortgages and debts in place, plus photographs of all the home of the 'main players' in this narrative?" (10 September 2013)

"Please calculate the amount of VAT I have paid on [name redacted]'s (for BCBC) fraudulent claim including the interest charge by [name redacted]". (10 September 2013)

"On the 16<sup>th</sup> November 2005, according to CILEX, you were 'elected to grade'. What grade diploma did you achieve?" (19 August 2013)

"I ask this question in preparation for my complaint to the Legal Ombudsman...Once again what grade diploma did you achieve?" (19 August 2013)



"...You have no need to remind me of the orders of Court. The sum significant enough to purchase a house in say, Tonypany, for example is at the forefront of my mind". (The date of this communication is unknown. The Council pointed out that Tonypany is the name of the town where the officer lives).

27. The Council advised that the complainant has also requested information about other named Council officers, including their job title and qualifications. In addition, the Council referred to comments the complainant had made about its elected leader, as detailed below:

"Does the elected leader of the Authority have under any law or statutory instrument, or where the victim is dribbling fool, or just for the 'hell of it' have any right to read my personal email to and received from the Authority in confidence as provided by said authority to him, unless my permission was granted. And then without discussion of further legal advice from any party other than the 'accused' (the authority), condemn my case to the Council's recycle bin". (7 September 2013).

"...the leader's salary is £47,000 excluding benefits/expenses, considering the sum is £20,836 more than the average UK annual wage, please explain how; so a human with an I.Q. of 120 could be convinced, the leader's job is a philanthropic vocation not a career and if reliant on hard cash paid by us to him via the authority', his impartiality to his employer's defence in any matter can be guaranteed" (7 September 2013)

### **Unreasonable persistence**

28. The Council is of the view that the complainant is attempting to reopen an issue which has been rehearsed repeatedly by him over a period of seven years. The Council also referred to the fact that the matter has been subject to independent scrutiny- matters relating to the property in question were the subject of extensive litigation, court hearings and court orders between 2006 and March 2012, when litigation was concluded. In support of its representations, the Council referred to the following comments/statements made by the complainant:

"The authority is aware that I continue to contest the claim made for Mesne profits in the matter of [name of property]. Satisfaction of this request will potentially save costs to both parties". (21 October 2013).

"You seem to be under the impression that the matter of UPRN 80019 has been closed.....'reopen this matter as vexatious'.....au contraire mon amis". (9 October 2014)

"I have had enough of pulling teeth in this FOI fiasco. I am fed up with eating your cold leftovers. The ethos of the FOI act 2000 is now a



teenager, like any teenager 'to be part of the gang' it needs to be technologically a la mode. I see no reason why, under the Act, I cannot access any document that has been passed for inclusion under all Acts". (9 September 2013)

"When will you satisfy this overdue request?" (2 September 2013)

### **Unfounded accusations**

29. The Council referred to a number of unsubstantiated against specific officers and the Council itself which the complainant has made, as detailed below:

"I, [name redacted], hereby will say that: Bridgend County Borough Authority the 'Authority', on the 27<sup>th</sup> of January 2012 at Bridgend County Court, committed an act of perjury as detailed herein. Also, the Authority continually perverted the course of justice by refusing to provide at the request of the defendants, vital documents material to their defence; thus denying the defendants of a fair trial, contrary to Article 6 of the Human Rights act". (22 January 2014)

"Whether or not [officer name redacted]'s massaging of this document is illicit, at this time I am unsure, I do believe however, that her intent is both axiomatic and incredibly unethical". (6 October 2014)

"Considering the abhorrent conduct of the Authority in respect of previous litigation, I am not prepared to trust the Authority's misguided protocols in dealing with such serious matters". (11 October 2013)

Once again I have been deeply insulted and frustrated by the Authority's treatment and unforgivable indifference to me. Fortunately I am able to evidence all of your (BCBC's) flagitious acts". (9 September 2013)

"In January 2012 this Authority attempted to steal our home. I want to understand why". (31 October 2013)

"To my legally uneducated mind it would appear that you admit on behalf of the Authority that [officer name redacted] when forcing my family to be evicted from our home, made fraudulent representations to a Court of Law, thereby acting in contempt of Court and the Rule of Law". (10 September 2013)

"....BCBC have conducted an annihilation of my right to respect for my home and family life". (10 September 2013)

### **Frequent or overlapping requests**

30. The Council referred to a summary of communications received from the complainant, which it considers demonstrates the complainant has submitted frequent requests and other correspondence about the same subject matter. Many communications were sent to the Council before it had had the opportunity to consider earlier correspondence or requests. For example, the complainant sent 13 requests for information in August 2013, 7 in September 2013, and 6 in October 2013.

### **Deliberate intention to cause annoyance**

31. In support of this indicator the Council referred to a comment made by the complainant in July 2013:

"Now that I have fingered the internal mechanism, to exhaustion, they recommend an external" (30 July 2013).

### **Serious purpose and value**

32. The Council's position is that the information requested has no wider benefit to the public as it is focused on the complainant and matters relating to the property for which he was granted a lease in 2005. The Council is satisfied that the request has no purpose and value and considers that it has been designed by the complainant to cause further disruption and annoyance as a means of putting inappropriate pressure on the Council.
33. The Council confirmed that it would fully consider any future request made by the complainant on any unrelated topic or those that have a valid purpose.

### **Conclusion**

34. As stated above, the Commissioner's approach is to assess whether the level of disruption, irritation or distress caused to the authority by the request is disproportionate or unjustified, when weighed against the purpose and value of the request. When making the assessment, he has also taken into account the context and history of the request, ie the wider circumstances surrounding the request.
35. The Commissioner notes the Council's representations in relation to its previous dealings with the complainant. In this case, the Council has been able to demonstrate that it has engaged to a significant extent with the complainant's detailed correspondence on matters associated with the property in question over a number of years. The Commissioner is prepared to accept that, cumulatively, the Council has spent a significant amount of time and resources in dealing with the

complainant's information requests, in addition to separate subject access requests and other correspondence and contacts from the complainant.

36. The Commissioner notes that the request in this case relates to a property which the complainant was granted a lease for in 2005, ie the issue at hand is one that individually affects the requestor. The matter has been subject to independent investigation via significant litigation through the courts over a number of years which concluded in 2012 when the complainant made full payment to the Council. The Commissioner notes that the complainant has raised concerns at the litigation process and questioned the behaviour and statements made by Council officers involved in the litigation. The Commissioner is unable to make any comment on the veracity of the claims made by the complainant, however, he considers that the request is a further attempt to challenge the decisions and actions taken by the Council.
37. The Commissioner notes the evidence provided by the Council about the language and tone of the complainant's previous communications. He accepts that this has gone well beyond what the Council's staff should reasonably expect to receive. The Commissioner also considers that some of the language employed in the complainant's correspondence is particularly offensive. He considers that the comments made, together with accusations and allegations the complainant has made against members of staff would clearly be harassing to the individuals concerned. The Commissioner notes that the Council wrote to the complainant in September 2013 expressing concern at some of the language used and tone of his communications, and asked him to adopt a more professional approach in future communications. Based on the evidence provided, the Commissioner has seen no evidence to suggest that the complainant changed his approach to communicating with the Council.
38. The Commissioner considers that, based on the evidence provided, it is reasonable for the Council to conclude that the complainant will continue to submit requests, and/or maintain contact about the subject matter regardless of any response provided to the request in question. He accepts that, the disruption to the Council resulting from any continuing correspondence would be disproportionate. The Commissioner is therefore satisfied that, in the context of the Council's previous and ongoing dealings with the complainant, compliance with the request would result in a disproportionate burden on its resources.
39. The Commissioner notes that some of the evidence provided by the Council is dated after the request was submitted. However, he considers the evidence supports the pattern of behaviour the complainant has

demonstrated in dealings with the Council prior to the request being submitted.

40. Taking into account all the circumstances of the case, the Commissioner considers that a strong case has been presented to demonstrate that the request is vexatious. It was not the intention of the legislation that individuals should be allowed to pursue personal grievances to an unreasonable extent through the use of the FOIA. Limited public resources should not be spent on continuous unproductive exchanges. The FOIA gives significant rights to individuals and it is important that those rights are exercised in a reasonable way. There comes a point when the action being taken and the associated burden being imposed on the authority is disproportionate to the objective that the complainant is attempting to achieve. That point has been reached in this case. There is nothing to suggest that there is any serious purpose or value behind the request which is sufficient to warrant the Commissioner overturning the Council's decision to rely on section 14(1).
41. Taking into consideration the findings of the Upper Tribunal in Dransfield that a holistic and broad approach should be taken in respect of section 14(1), the Commissioner has decided that the Council was correct to find the request vexatious. Accordingly, the Commissioner finds that section 14(1) has been applied appropriately in this instance.

## Right of appeal

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42. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

43. 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.
44. 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 .....**

**Anne Jones**  
**Assistant Commissioner**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**