

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 July 2022

Public Authority: Ryhill Parish Council
Address: La Chanteuse
Common Lane
Upton
Pontefract WF9 1DF

Decision (including any steps ordered)

1. The complainant requested information from Ryhill Parish Council in West Yorkshire ("the Parish Council") about its accounts. The Parish Council initially provided some information, but, when asked to carry out an internal review, revised its position and stated that the request was vexatious.
2. The Commissioner's decision is that the request was vexatious, and the Parish Council was therefore entitled to refuse it under section 14(1) FOIA. He does not require the Parish Council to take any steps.

Request and response

3. In a letter dated 10 September 2021, the complainant wrote to the Parish Council and requested information in the following terms:

"I would like to make a Freedom of Information Request for a copy of the following please:- Accounting Records for the Financial Year Ending 31 March 2021 Ryhill Parish Council
 - Books, Deeds, Contracts and Bank Statements for Year Ending 31 March 2021

- Bills, vouchers and receipts and any other documents for amounts of £200 or over for the Year Ending 31 March 2021.
 - Minutes for the approval of the accounts May 2021 and all other minutes for the year April 2020 to the present day including the complaints committee meetings regarding myself. These all should be available on your website as per your publication scheme so should be available free of charge."
4. The Parish Council states that it received the request on 17 September 2021. On 13 October 2021 it replied by email, stating:
- "A full copy of the accounts (including copies of invoices, bank statements etc) is held at the St Paul's Methodist Church, you can view these free of charge and take copies as required. This is further outlined on Wakefield Council website 'notice of completed accounts'. All minutes including the Annual Meeting minutes are also held at the St Paul's Methodist Church (see Annual Meeting minutes for approval of 2020/21 Annual Accounts)."
5. The complainant consulted the Commissioner, who was already dealing with a separate complaint involving the same parties. The Commissioner advised the Parish Council that it may not have complied with section 11 FOIA (means of communication) in its response of 13 October 2021, and should consider whether it was reasonable to provide hard copies of the information, as requested.
6. On 13 January 2022, the Parish Council issued the complainant with a fees notice in respect of photocopying charges, and the complainant paid the fee. Later in January, the Parish Council provided the complainant with some information.
7. The complainant contacted the Commissioner again on 28 January 2022 explaining that she considered some information was missing and/or inaccurate. The Commissioner advised her to seek an internal review to establish whether further information was held.
8. The complainant requested an internal review on 9 March 2022. She set out details of several items which she considered were missing or not accurate; for example: "2/10/20 missing receipt for £220 cheque no. 102973."
9. On 20 April 2022, the Parish Council wrote to the complainant and informed her that, having discussed her ongoing complaints and grievances, it would not liaise with her directly, since it understood she was taking legal advice; it would wait to hear from her representatives.

Scope of the case

10. The complainant advised the Commissioner on 3 May 2022 that she remained unhappy with the handling of her request.
11. The Commissioner wrote to the Parish Council on 20 May 2022, advising that he was aware that there were ongoing issues between the parties, but explaining that he required clarification as to whether the Parish Council now considered, specifically, that the request dated 10 September 2021 was vexatious.
12. The Parish Council confirmed that this was its position, and subsequently provided the Commissioner with some supporting evidence.
13. This notice considers whether the Parish Council correctly concluded that the request dated 10 September 2021 was vexatious under section 14(1) FOIA.

Reasons for decision

Section 14(1) FOIA – vexatious requests

14. 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.
15. The word “vexatious” is not defined in FOIA. As the Commissioner’s updated guidance on section 14(1)¹ states, it has been established that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
16. However, FOIA gives individuals a greater 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.
17. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.

¹ <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

18. The emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) ("*Dransfield*")². Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported and established the Commissioner's approach.
19. *Dransfield* established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
20. The four broad themes considered by the Upper Tribunal in *Dransfield* were:
 - the burden (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).
21. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. They stated:

"all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA" (paragraph 82).

The Parish Council's view

22. The Parish Council explained that there has been a long history of the complainant expressing her dissatisfaction over its governance and operation, dating back to 2006 when, it states, the complainant was dismissed as a councillor.
23. It explained that, since that time, the complainant:
 - has made unsubstantiated allegations about serving councillors (which were investigated and not upheld);

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

- has made complaints about the Parish Council to the principal local authority, Wakefield Metropolitan District Council (complaints not upheld);
 - has written to the auditing accountants to complain about certain donations, amongst other matters (complaints not upheld);
 - has made numerous enquiries about the availability of information such as minutes and accounts, including when these are on public display;
 - once directed towards information (or provided with her own copy), has tended to write "long, complicated letters" about missing items, and once these are answered, has tended to raise further queries, which at times have been contradictory;
 - has objected to the way in which meetings have been advertised when this has been done correctly;
 - objected to the standard of the Parish Council website and documents not being accessible on it (despite the documents being accessed by others); since the website has ceased to operate due to the death of a councillor, she has increased her requests for her own personal copies of publicly-available information;
 - contacted the clerk excessively by email and text, using language which became "terse and arrogant", until asked to submit correspondence only by post.
24. The Parish Council stated that the situation is such that it would, in fact, welcome an approach from the complainant's legal representatives because it considers this may bring matters to a close.
25. The Parish Council considers that, rather than instructing lawyers, the complainant has chosen to use FOIA to continue to disrupt it and harass its staff, particularly the clerk.
26. It comments that a long-serving councillor recently left the Parish Council following harassment from local residents, which it has intimated, may be connected to the complainant.
27. The Commissioner understands that the Parish Council considers that the request, taken in the context of the complainant's ongoing issues, did not, in itself, have serious purpose or motive and was seeking primarily to disrupt and harass. In its view, complying would place a disproportionate burden on the Parish Council.

The complainant's view

28. The complainant's view is that she wishes the Parish Council to operate in a more transparent manner. She wishes the public to be able to scrutinise its finances, including being provided with what was requested on this occasion.
29. She has informed the Commissioner that, since the website is no longer in use, the Parish Council has relied on information being available for inspection in a church building which is not always unlocked and accessible; she points out that when she has experienced ill health or mobility issues, it has been difficult to access information.
30. She has also commented on the difficulties she experienced being able to attend meetings via Zoom during the Covid-19 pandemic, during which the clerk asked her not to contact the Parish Council by email. She was sometimes aware of Parish Council meetings, since they were advertised on the church noticeboard, but claims that she was prevented from making contact in order to receive a Zoom invitation.
31. The complainant therefore considers that her recent contact with the Parish Council has been necessary in order to ensure normal access to public matters.
32. With regard to the information being requested, she has pointed out that she has concerns over such matters as missing invoices; for example, regarding payments to West Yorkshire Police for additional policing, which the Parish Council pays for each quarter.

The Commissioner's decision

33. The Commissioner is aware of frustration on both sides in this case, but, in order to determine this specific complaint, this notice necessarily focuses on whether the request of 10 September 2021 placed a disproportionate burden on the Parish Council, and can therefore be considered vexatious in line with his guidance. He has, however, addressed the complainant's wider concerns over transparency and access in the Other Matters section of this notice.
34. The Commissioner notes that the request appears to be for a considerable amount of information, including very detailed financial information for the year in question. The complainant requested copies of every invoice and receipt over a certain value, and every bank statement, for the year in question.
35. Whilst it may be regrettable that the Parish Council does not, currently, make financial information readily available other than by arrangement to visit the church building, the Commissioner notes that a high level of

detail is being requested here: more than would, routinely, be published by a public authority.

36. He therefore notes that, in the circumstances, complying with the request would be onerous, certainly in terms of the time it would take to collate and copy everything being asked for, which also included "books, deeds and contracts". Although a public authority can charge for its disbursements in such circumstances, it is not allowed to charge for the time taken, and the Commissioner considers that this is relevant in terms of considering whether the burden in complying with the request is oppressive.
37. Specifically, in his guidance, the Commissioner states: "a small public authority, such as parish council, only has very limited resources because a parish clerk may be employed for just a few hours a week. Therefore, the threshold at which the burden becomes grossly oppressive is lower than for a larger public authority."
38. Whether the burden is disproportionate, however, also requires consideration of the serious purpose and value behind the request, and any wider public interest.
39. The Commissioner notes from entries in the Parish Council minutes that the complainant has expressed concerns over certain specific issues on various occasions.
40. An example of this is the matter of paying for extra policing. It is evident from meeting minutes that the Parish Council regularly informs the public of the cost of this service, and explains its ongoing value to the community. However, the Commissioner notes from correspondence that the complainant has sought to identify any and all payments and receipts relating to this matter (referring to it in her request for an internal review, and in correspondence to the Commissioner). Her aim appears to be to be able to carry out her own checks and cross-referencing relating to this matter and indeed to all of the Parish Council's dealings for that year.
41. From correspondence, the Commissioner has formed the view that the complainant has certain concerns which have become personal to her, and go beyond a general public interest in transparency and accountability.
42. The Commissioner also notes that, once the complainant has received a response from the Parish Council, she has tended to raise further questions and issues, demanding explanations and either raising new concerns or referring back to previous issues. However, this does not appear to be because she believes actual wrongdoing has occurred, and

indeed the Commissioner is not aware of any wider concerns over the Parish Council's financial affairs.

43. The Commissioner, therefore, considers that the complainant's tendency to write back asking for more details or asking more questions (which indeed he has observed in the complainant's correspondence with himself) adds to the burden on the Parish Council, without any obvious justification, and was a legitimate concern when it came to responding to this request.
44. The Commissioner is not persuaded that there exists sufficient wider purpose and value in the request to outweigh the undeniable burden which would be imposed on the Parish Council in complying.
45. In the circumstances of this case, the Commissioner considers that the request of 10 September 2021 was a vexatious request, and was therefore correctly refused under section 14(1) FOIA.

Right of appeal

46. 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

47. 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.
48. 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

Sophie Turner
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Information Commissioner's Office
Wycliffe House
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SK9 5AF