

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 February 2025

Public Authority: Stevenage Borough Council
Address: Daneshill House
Danestrete
Stevenage
Herts
SG1 1HNX

Decision (including any steps ordered)

1. The complainant requested information from Stevenage Borough Council (SBC), relating to the repossession and clearance in 2015/2016 of (address redacted) where (Name redacted) was the registered tenant.
2. SBC relied on section 14(1) of FOIA (vexatious) to refuse the requests.
3. The Commissioner's decision is that the requests were vexatious and therefore SBC was entitled to rely upon section 14(1) of FOIA to refuse it.
4. The Commissioner does not require any steps.

Request and response

5. On 9 May 2024, the complainant wrote to the public authority and requested information in the following terms:

"I am emailing to both lodge a formal complaint for non compliance of two FOI requests from me and my son as well as request my first FOI request

My son who had full authority on the account granted by me in 2015 and 2016 was refused his FOI request on 4 April 2022 for;

1.Please provide copies of all the 3 stages of formal complaints logged relating to the (Redacted) including all responses.

2. Please provide copies of all internal communication relating to (Redacted), whilst (Name redacted) was tenant, including all correspondence regarding as to when and how chattels all disposed.
3. Please provide copies of all evidence that letters have been sent both by recorded delivery and normal post.
4. Please provide copies of any other evidence/documents you hold in relation to (Redacted)"
6. On 9 May 2024, in a separate complaint email, the complainant requested

"All data requested and all data held by Stevenage Borough Council, including all internal communications and how and when the possessions were destroyed, this referred to (address redacted) on reference number (redacted)."
7. On 9 May 2024, the complainant's son further wrote to SBC requesting the following:

"1. Please provide copies of all the 3 stages of formal complaints logged relating to the (Redacted), including all responses.

Please provide copies of all internal communication relating to (address redacted), whilst (Name redacted) was tenant, including all correspondence regarding as to when and how Chattels all disposed.

Please provide copies of all evidence that letters have been sent both by recorded delivery and normal post.

Please provide copies of any other evidence/documents you hold in relation to the (Redacted)?.

The time frame for all information to cover is: From 04/04/2015 to 04/04/2022".
8. On 14 May 2024 SBC responded and asked the complainant to clarify her request as follows:

"Do you want us to also process your son's original request (4/4/22) highlighted below? Please can you confirm if the end date for information is the dates you initially submitted the requests?"
9. On 14 June 2024 SBC responded to the both the complainant and her son's request on the one response. It refused to provide the information requested in both requests citing section 14(1) (vexatious request) of

FOIA as its basis for doing so and provided a comprehensive response, a summary of which is given below which stated:

- a) SBC no longer held any information prior to 1 June 2018 for parts 1 to 4 of the request as the documents would have been destroyed, in line with SBC's document retention and disposal policies. SBC stated "The retention periods for identified information subject to this request were as follows:
 - Complaint records – 6 years from date record created.
 - Ombudsman Records – 6 years from date complaint resolved.
 - (redacted) records – 7 years from end of the tenancy"
 - b) It held some information falling within the scope of the request for court documents and papers and email communication between 2018 and 2022, related to Civil litigation, between the complainant and SBC.
 - c) Additionally, internal communication between SBC and its legal advisors, regarding the provision of legal advice would likely be exempt from disclosure under section 42 of FOI - legal and professional privilege and
 - d) The retrieval of all held information within scope would require further officer time and a review and redaction exercise of personal data to ensure disclosure was in line with the Data Protection Act 2018 (DPA) legislation.
10. On 1 July 2024 SBC provided an Internal Review and upheld its position SBC provided the complainant with links to its Complaint and Unacceptable Behaviour Policies¹ and stated

"For completeness, as far as any information within the scope of your requests is personal information or environmental information, we rely on the equivalent exceptions and exemptions, as set out in

¹ <https://www.stevenage.gov.uk/documents/complaints/complaints-policy-2024.pdf>

<https://democracy.stevenage.gov.uk/documents/s32708/Comps%20-%20Appendix%20B%20-%20Unacceptable%20Behaviour%20Policy.pdf>

the Environmental Information Regulations 2004 (EIR) and the Data Protection Act 2018 (DPA), for substantially the same reasons. These are:

Regulation 12(4)(b) of the EIR - Manifestly unreasonable requests.

The purpose of the exception is to protect public authorities from a manifestly unjustified, inappropriate or improper use of the EIR to make requests which are likely to cause a disproportionate cost or burden, or an unjustified level of distress, disruption or irritation.

Section 53 of the DPA - Manifestly unfounded and excessive requests

Relevant considerations here include:

- the nature of the information the request is about;
- the context of the request and the circumstances of the relationship between you and the council; and
- the fact that the matters to which the requests relate have been comprehensively dealt with before, including by a court.

Additionally, if you exercise your right to complain to the ICO, we reserve the right to rely on other relevant exemptions and exceptions under FOIA and the EIR to refuse to act on your request, including:

- Section 21 of FOIA: The information is reasonably accessible to you by other means, as you already have access to much of the information through prior engagement with the council, the ombudsman and the courts;
- Section 42 of FOIA: Some of the information is subject to legal advice and litigation professional privilege;
- Regulation 12(4)(a) of the EIR: Information is not held by the council;
- Regulation 12(4)(e) of the EIR: Internal communications. We can refuse to disclose information to the extent that request involves the disclosure of internal communications;
- Regulation 12(5)(b) of the EIR: The course of justice and inquiries exception; this is broadly equivalent to the legal privilege exemption under Section 42 of FOIA"

Scope of the case

11. The complainant's son (acting on his mother's behalf) contacted the Commissioner on 11 August 2024 to complain about SBC's handling of a request for information.
12. The Commissioner notes that SBC stated in its internal review response of 1 July 2024 that it had also considered refusing the request using a number of exemptions within FOI and the equivalent exemptions set out in the Environmental Information Regulations 2004 (EIR), however, it decided to rely solely on section 14(1) of FOI (Vexatious request) to refuse it.
13. The Commissioner therefore considers that the scope of this case is only to determine whether SBC is entitled to rely on section 14(1) to refuse to comply with the request.

Reasons for decision

Section 14(1): Vexatious requests

14. Section 14(1) of FOIA allows public authorities to refuse to comply with a request if it's vexatious.
15. 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. As the Commissioner's detailed guidance² notes, four broad themes provide a useful structure to start analysing whether a request is vexatious (although they aren't a checklist, and aren't exhaustive):
 - The burden on the public authority and its staff.
 - The motive of the requester.
 - The value or serious purpose of the request.
 - Any harassment or distress of and to staff

² <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/section-14-dealing-with-vexatious-requests/>

17. The term “vexatious” is not defined in FOIA. The Upper Tribunal considered the issue of vexatious requests in the case of *Information Commissioner v Devon CC & Dransfield*³. The Tribunal commented that vexatious could be defined as the “manifestly unjustified, inappropriate or improper use of a formal procedure”. The Tribunal’s definition clearly established that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.
18. 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.
19. 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.
20. In the Commissioner’s view, the key question for public authorities to consider when determining if a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.

The complainant’s view

21. The complainant stated their dissatisfaction with how SBC had handled their request. The complainant believes SBC has not disclosed some information at a court hearing which prejudiced the case against them and that disclosure of information within the scope of the request will provide the information and details of where, how and to whom possessions were disposed.

SBC’s view

22. The position of SBC is that it considers the requests to be unreasonably persistent, vexatious, and designed to cause a disproportionate and unjustifiable level of distress, disruption and irritation.
23. It also considers the continued requests to be an inappropriate and an improper use of the FOIA and DP legislation and that it has comprehensively replied to all previous requests and all venues for disclosure had now been exhausted. SBC considered that the

³ <https://administrativeappeals.decisions.tribunals.gov.uk//Aspx/view.aspx?id=3680>

complainant appears to be "adopting an intransigent entrenched position, in refusing to accept the outcome of these processes."

24. In its response to the complainant of 14 June 2024 SBC stated

"There has been previous extensive engagement between yourselves and the Council, regarding the underlying matter, the repossession of (redacted) and disposal of possessions. This issue has been exhaustively considered and addressed through the Council's complaints procedure, Ombudsman and the Courts. Therefore, this subsequent request we believe, does not have a continuing justification to warrant exhausting further council resources to address."

25. In its internal review response of 1 July 2024, SBC further considered that "Your requests are mixed in with complaints and wholly unfounded and untrue allegations of cover up, concealment, conspiracy and illegality. It is clear that you are seeking to uncover some non-existent evidence of wrongdoing at the council, and you are refusing to accept the lawful actions and decisions made by the council many years ago which have been upheld by the ombudsman and the courts."

The Commissioner's decision

26. In cases where a public authority is relying on section 14(1), it is for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.

27. The Commissioner appreciates that sometimes it is beneficial to request information under FOIA and, providing that there are no exemptions from its disclosure to the world at large, will provide transparency in the public interest. However, the Commissioner must also consider whether there is any value and purpose to the request which outweighs the administrative burden and disruption that the request places on SBC.

28. The Commissioner considers that these requests appear to be an attempt to use FOIA in an improper way to satisfy the complainant's own private interests and request for personal information rather than accessing information which may be of wider public interest and considers this an improper use of FOI legislation. The Commissioner notes that the complainant has also submitted SARs to request their personal data and that this would be the most appropriate avenue to request personal information held by SBC.

29. Additionally, if the information was also not disclosed or obtained from the Litigation and associated court document disclosures, Ombudsman

intervention or via a Subject Access Request (SAR) and the UK GDPR regulations, it is unlikely to be disclosed under FOI legislation.

30. The Commissioner is satisfied that providing a response to these requests would prolong correspondence and place an unfair burden on SBC in a manner which would be disproportionate to the value of the requests and that there is little or no public interest in disclosure. He also considers that the complainant is unlikely to ever be satisfied with SBC's responses. If SBC had complied with the request, there is a high likelihood that correspondence would continue with no end in sight for them.
31. He therefore accepts SBC's argument that complying with the requests would also place additional pressures and burden on its limited resources and result in an unjustified level of disruption diverting them from other matters. For the avoidance of doubt, under FOIA it is the request that is deemed vexatious and not the requester themselves.
32. The Commissioner's decision is that the requests are vexatious. Therefore, SBC was entitled to rely on section 14(1) of FOIA to refuse to comply with the requests. The Commissioner requires no further action to be taken by SBC.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.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.

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