

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 September 2013

Public Authority: London Borough of Redbridge

Address: Town Hall
High Road
Ilford
Essex
IG1 1DD

Decision (including any steps ordered)

1. The complainant has requested information about child protection from the London Borough of Redbridge (the 'Council'). The request was refused on the basis that the Council deemed it vexatious in accordance with section 14(1) of FOIA.
2. The Information Commissioner's decision is that the Council has properly deemed this request vexatious. He does not require the Council to take any steps.

Background

3. The complainant has a daughter who has previously received child protection services from the Council between 2009 and 2011. She had previously made a complaint to the Council about the processing and handling of her daughter's case, which was considered by the Council in line with The Children Act 1989 Representations Procedure (England) Regulations 2006.
4. Prior to the conclusion of the internal third stage of the Council's complaints procedure the complainant sought to raise the matter with the Local Government Ombudsman, who did not consider it appropriate to investigate whilst the Council was conducting an independent Stage 3 review panel.
5. This review panel was held on 3 March 2013 and the Council conceded that improvements could be made to its handling of the Stage 2

process. The outcome letter does not, however, make any reference to that concession.

6. The Commissioner understands that the complainant has since pursued her concerns via the Local Government Ombudsman and that the process is due to be concluded shortly.
7. Prior to submitting her request of 18 March 2013, the complainant had made 22 requests for information, containing 117 separate questions, during the period 1 July 2011 to 5 December 2012, many of which were repeated requests about social care services. Members of her immediate family also submitted seven requests during this time period.
8. This led to the Council declaring the requests as vexatious. It advised the complainant in a letter dated 19 December 2012 as follows:

"The purpose of this letter has been to advise you of the Council's general view of your recent use of the Freedom of Information provision, and to inform you that the Council does not intend to respond to further Freedom of Information requests by you or members of your immediate family."

9. At this stage the Council did not inform the complainant's relatives that it would no longer respond to requests received from them. Following representations from some of the family members, the Council felt it was appropriate to reconsider its position in relation to members of the complainant's immediate family. It therefore wrote to the relevant individuals on 13 January 2013 to advise them accordingly. The Council, however, maintained its position in relation to the complainant's requests.
10. The Council has confirmed that the initial section 14(1) refusal sent to the complainant on 19 December 2012 was intended only to apply to requests on the subject of support to her daughter and the family's concerns and complaints about unsatisfactory child protection services provided between 2009 and 2011. With this in mind, the Council revised its position at internal review for one of the complainant's requests (dated 21 December 2012), that had previously been declared vexatious, and a response to that request was provided.

Request and response

11. On 18 March 2013 the complainant wrote to the Council and requested information in the following terms:

- "1. *Please may I obtain a copy of the Protocol Operational Manual Child Protection/Child in Need protocols?*
 2. *Please may I obtain a copy of the Redbridge Procedures for Children in Need?*
 3. *May I obtain a copy of the social workers Case Audit Policy?*
 4. *May I obtain a copy of the Redbridge Threshold Document (in connection with child protection/CIN)?*
 5. *I would appreciate it if you could state whether Redbridge follows all Government Guidance regarding the Complaints Process relating to the duties of an Adjudicating Officer (impartial, just, responsible for ensuring recommendations are carried out, responsible for maintaining the independence of the independent investigators (IO and IP) and for the production and circulation of authentic reports to the relevant parties)."*
12. The Council responded on 25 March 2013. It stated that the request was vexatious as had been set out in its letter of 19 December 2012 in relation to a previous request from the complainant.

Scope of the case

13. The complainant contacted the Information Commissioner (the 'Commissioner') on 27 March 2013 to complain about the way her request for information had been handled.
14. The Commissioner has considered the Council's application of section 14(1) in relation to this particular information request.

Reasons for decision

Section 14 – Vexatious Requests

15. 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.
16. The term "vexatious" is not defined within FOIA. However, it has been considered in the recent case of *The Information Commissioner and*

*Devon County Council vs Mr Alan Dransfield (GIA/3037/2011)*¹ which concluded that the term could be defined as "manifestly unjustified, inappropriate or improper use of a formal procedure".

17. The *Dransfield* case identified four factors that are likely to be present in vexatious requests, although it did note that this list is not intended to be exhaustive or a formulaic checklist:
- 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 lack of value or serious purpose to the request.
18. The Tribunal urged that anyone considering whether a request could be considered vexatious should take a broad "holistic" approach to consider any other factors that are relevant to the request. It also confirmed that a single factor could be appropriate to refuse a request if the weight of evidence for it was sufficient.

Burden imposed by request

19. The Commissioner's guidance states that:

"a request which would not normally be regarded as vexatious in isolation may assume that quality once considered in context. An example of this would be where an individual is placing a significant strain on an authority's resources by submitting a long and frequent series of requests, and the most recent request, although not obviously vexatious in itself, is contributing to that aggregated burden".

20. The guidance also states that a requester's past pattern of behaviour may also be a relevant consideration. For instance, if an authority's experience of dealing with a requester previously suggests that they are unlikely to be satisfied with any response and will submit further follow-up correspondence, then this evidence could strengthen any argument that responding to the current request will impose a disproportionate burden on the authority.

¹ <http://www.osscsc.gov.uk/judgmentfiles/j3680/GIA%203037%202011-01.doc>

21. The *Dransfield* tribunal said that *"the purpose of section 14 must be to protect the resources (in the broadest sense of that word) of the public authority from being squandered on disproportionate use of FOIA"*.
22. As part of its submissions to the Commissioner the Council provided a spreadsheet summarising the requests it had received from the complainant and members of her family from July 2011 to June 2013, although the Commissioner has disregarded those submitted after 18 March 2013, which is the date of the request that is the subject of this notice.
23. The Council advised it had applied section 14(1) to the request of 18 March 2013 because in the preceding 14 months it had received such a large volume of complaints and detailed and extended FOIA requests from the complainant (25) and her family (5). It said the FOIA requests related directly or indirectly to *"the family's concerns about unsatisfactory child protection services provided between 2009 and 2011, and in some case covered similar and related material"*.
24. The Council argued that in referring 9 of the 25 requests to the Commissioner for further consideration, the complainant *"was intent on causing the maximum inconvenience to Council officers in response to the distress she had experienced from the matter about which she had already complained"*. The Commissioner has indeed received a number of complaints from this complainant, most of which have been closed pending an internal review or closed due to insufficient evidence.
25. In addition, the Council explained that complaints made by the complainant about child protection services provided to her daughter had been subject to scrutiny and investigation within the complaints procedure, and that *"the complainant appeared unreasonably persistent in pursuing the same and similar issues in her requests for information"*.
26. In support of its view that complying with the request of 18 March 2013 would have a detrimental impact, the Council stated that various operational staff - two Complaints Officers and their manager, one Principal Officer and the Managing Director - had spent increasing amounts of time dealing with the complainant's enquiries and complaints, collating and providing the requested information or explaining on occasions that it did not hold what had been requested.
27. The Council's view is that the impact of responding to the complainant's requests, including yet further staff time in researching and responding to additional similar requests, could not be justified as an appropriate use of staff time. The Council also argued that the amount of work which had to be undertaken was detrimental to the priority that should have been given to current families in need of its support services.

Motive of the requester

28. It is important to note that it is not the requester who is 'vexatious' but his or her request(s). However, the Commissioner's view is that different requesters can make the same request and receive differing outcomes in terms of whether the request is vexatious, once the relevant context has been considered for each of those individuals.
29. FOIA is generally considered to be applicant blind but this does not mean an authority cannot take into account the wider context in which the request is made and any evidence the requester volunteers about the purpose behind his or her request.
30. In this case, the complainant told the Commissioner she had made this request, and others, to support speeches and a book. She explained that, in her view, her daughter was "*targeted*" at least six times for "*safeguarding by children's and now adults services and hence the interest and reason for needing to research the book and discover what SHOULD have occurred (ie good practice)*".
31. Whilst the Commissioner has sympathy with the complainant's wish to ensure the best support from the Council for her daughter, he is also mindful that her concerns have been considered via other complaints processes and that her daughter is now not in receipt of any Council services as she is an adult.

Harassment or distress caused to staff

32. The Council provided the Commissioner with a copy of its letter of 19 December 2012 in which it declared the complainant's requests as vexatious. In this letter it informed her that it took the view that:

"the nature and volume of your requests and the derogatory terms in which you have on occasion chosen to address its staff amount to harassment of the authority and is causing distress among staff whose primary concern is to provide services to children in need and their families".
33. The Council provided examples which included: "*Dear Mr...Since your disability is, seemingly, greater than mine...*"; "*I am tiring of your constant need to have everything researched and laid before you when your statements are untrue and unsupported...I must insist therefore that a more conscientious member of staff take over*"; and the suggestion that the Complaints Manager had "*duped me out of a Stage 3 hearing*".
34. In addition, the Council explained that the detailed nature of the complainant's numerous requests arising from the relatively limited

amount of service that it had provided to her family had created a significant burden on the Council and its staff whose efforts should be focussed on those currently needing its support and help, which no longer includes the complainant's now adult daughter. It considered that the complainant's requests arising from the same theme are distracting staff from the work they should be doing and the expense of responding could better be used to assist those currently in need of its help.

35. The Council told the Commissioner that it remains difficult to understand the purpose or value of the complainant's requests, *"beyond wanting to cause irritation and distress to members of an organisation which she felt had provided her with poor service and about which she had complained"*.

Value or serious purpose of request

36. The Commissioner asked the Council to explain why this impact would be unjustified or disproportionate in relation to the request itself and its inherent purpose or value.
37. In its letter to the complainant of 19 December 2012 the Council advised her that it *"takes the view that the nature and volume of your repeated requests for information about social care and related services for children should be regarded as vexatious in that further requests are likely to cause further distress, disruption or irritation, without any proper or justified cause"*.
38. In addition, the Council said that it considered the complainant's requests:

"may perhaps be motivated by a desire to retaliate against the Council in some way for the wrong that you may think was caused to you in our previous dealings with you, about which you have also made several complaints";

and that

"it remains difficult to understand the purpose or value of the requests made by [the complainant] beyond wanting to cause irritation and distress to members of an organisation which she felt had provided her with poor service and about which she had complained. Given that the requests have no inherent purpose or value the Council was readily able to form a clear view that the impact of responding to them, including yet further staff time in researching and responding to additional similar requests, could not be justified as an appropriate use of staff time".

39. The Council said that it was difficult to see to what purpose the information would be put, particularly as the casework had been completed and the case closed. It explained that the complainant's daughter became an adult in November 2012 and the complaints procedure had not concluded at that point.
40. In relation to the wider context and history to the request, the Council reiterated that both the complainant and members of her family had made many FOIA requests concerning child protection and other services, and *"had pursued these without any genuine purpose. They also made complaints. The enquiries and complaints were typically long and detailed, one raising 250 separate enquiries and complaints about the content of the Council's case records and the most recent including 98 separate enquiries, some of which have already been addressed"*.
41. The Council said that the complainant's requests appeared to have been motivated by a wish to reopen issues that had already been debated and considered as part of the complaint process.

Conclusion

42. After considering the arguments put forward by both the complainant and the Council, together with the context in which the requests were made and the evidence supplied, the Commissioner's decision is that the request of 18 March 2013 is vexatious. The requests have caused a significant burden upon the Council's resources and caused several staff members distress. The issues which are the subject of the complainant's requests have been further considered via the Council's complaints process and by the LGO. It is reasonable for the Council to take steps to limit the amount of resources it spends on the complainant's requests. Section 14(1) does, therefore, apply and the Council was not obliged to comply with the request of 18 March 2013.

Right of appeal

43. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

44. 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.
45. 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

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