

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 June 2014

Public Authority: Sheffield City Council
Address: Town Hall
Pinstone Street
Sheffield
S1 2HH

Decision (including any steps ordered)

1. The complainant has requested from Sheffield City Council ('the council') information relating to bowling clubs and the council's complaints procedure. The Commissioner's decision is that the council has correctly applied the vexatious provision at section 14 of the FOIA. He does not require any steps to be taken.

Request and response

2. On 11 November 2013, the complainant wrote to the council and requested information in the following terms:

"Please provide all up to date documentation which states, or will provide supporting evidence, to establish why a member of the council tax paying public has no right to make more than one complaint to Sheffield City Council, and have that complaint investigated under Sheffield City Council's Complaints procedure and have that complaint forwarded to the ombudsman office

Excluding all FOIA(2000)Act documentation provided already."
(Request 1)

"Now as per Amy Carters email on the 2nd March 2012 at 16.47 please supply the following under the FOIA(2000)Act. All documentation

relating to the bowling green is run by volunteers and the crown green bowling association.

Excluding all FOIA(2000)Act documentation provided already."
(Request 2)

3. The council responded on 14 November 2013 and refused to provide the requested information citing the vexatious provision at section 14 of the FOIA.
4. The complainant requested an internal review on 21 November 2013.
5. The council provided an internal review on 11 December 2013 in which it maintained its original position.

Scope of the case

6. The complainant contacted the Commissioner on 24 December 2013 to complain about the way his request for information had been handled.
7. The Commissioner has considered whether the council was correct to apply the vexatious provision at section 14(1) of the FOIA.
8. During the course of the investigation, the complainant made the Commissioner aware of another request made on the same date as follows:

"How much financial assistance has Sheffield City Council given, donated or provided to every bowling club of which Sheffield City Council own, from January 2012 to September 2013 inclusive."
(Request 3)

He requested that this further request was considered as part of the case.

9. During a telephone conversation with the Commissioner, the council confirmed that it would like to apply the vexatious provision to the additional request detailed above for the same reasons as the two initial requests made that day.
10. The Commissioner has therefore also included request 3 in his consideration of whether the council was correct to apply the vexatious provision at section 14(1) of the FOIA.

Reasons for decision

11. 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.
12. The term 'vexatious' is not defined in the legislation. In *Information Commissioner vs Devon County Council & Dransfield*¹, 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.
13. 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) and 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

"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).
14. 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.
15. 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 requests². The fact that a request contains one or more of these indicators will not necessarily mean that it

¹ UKUT 440 (AAC) (28 January 2013)

² http://www.ico.org.uk/~/media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx

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.

16. The council said that the focus of the complainant's contact with it is the Green Oak Park Bowling Club. It said that since 2009, the complainant and several members of his family have made verbal and written enquiries and complaints about Green Oak Park and its bowling club, and been provided with a vast amount of information. It explained that the complainant initially complained to the council about the provision and availability of the toilet facilities at Green Oak Park, an interest that has, over the years, resulted in a number of requests about the :

- council's involvement with the Green Oak Bowling Club,
- compliance of the Bowling Club with the council's contract terms and conditions,
- behaviour and qualifications of [council employee],
- park inspections of [council employees],
- behaviour and attire of the complainant,
- council's contacts with the police concerning the complainant's behaviour toward the Bowling Club Secretary and other club members.

17. The council explained that it has endeavoured to respond to the complainant and provide information where appropriate, but the complainant remains dissatisfied and continues to make requests, many of which are repeated. Therefore, it decided to treat the complainant's requests about or in relation to Green Oak Park and its bowling club as vexatious. It said that this decision is based on the following:

- "Burden on the authority. Between April and November 2013, [complainant] submitted 20 requests: 14 FOI requests, 4 complaints and 2 subject access requests. This is a burden to the authority for the staff trying to respond professionally and lawfully to verbal and written requests, often in difficult circumstances with [complainant] himself while trying to deliver services to others.
- Personal grudge. [Complainant] appears to have a grudge against the City Council and the Green Oak Park Bowling Club because he believes the City Council has made false claims and allegations about his behaviour. [Council employee] did provide the police with a witness statement and copies of letters from the Club Secretary about their concerns with [complainant's] behaviour as part of a police investigation into alleged harassment.
- Unreasonable persistence. [Complainant] remains dissatisfied about the Green Oak Park and the Bowling Club and appears to want the City Council to investigate the Bowling Club's compliance with the

signed terms and conditions. We consider this to be an attempt to pursue the original complaint about the provision and availability of the facilities at the Park.

- Frequent or overlapping requests. [Complainant's] requests focus on the Bowling Club, Green Oak Park, his behaviour or that of City Council staff. We have provided all the information to which [complainant] is entitled either under Freedom of Information Act or the Data Protection Act. [Complainant] continues to ask questions, often the same or very similar questions, which we have answered. For example the subject access request (SAR 26) submitted on January 27th 2014 asked the same questions as the Freedom of Information request dated July 5th 2013 (FOI 2476)."
18. As stated in paragraph 14, the Commissioner needs to consider 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. Whilst the authority has not specifically provided evidence that responding to these particular requests would have an unjustified or disproportionate effect, it has provided evidence that in a 7 month period, the complainant made 16 information requests and 4 complaints on the issue of the bowling club and Green Oak Park, or requests and complaints stemming from that issue. It also provided a correspondence log dating back to 2009 recording approximately 150 letters and telephone calls between the complainant (or on his behalf) and the council prior to the requests under consideration in this case being made, and said that the requests, complaints and phone calls have taken considerable resource to manage. The Commissioner considers that responding to the requests under consideration in this case, when combined with the previous requests, would have a detrimental impact on the authority.
19. Turning now to the serious purpose and value of the requests, the council said that it believes the complainant is abusing the FOIA by making frequent and repeated requests for information and exercising his rights to request an internal review and then escalating complaints to the Information Commissioner in an attempt to cause maximum disruption and distress to the officers involved. It believes its decision to treat these requests as vexatious to be proportionate and justified and is conscious that continued and often unresolvable dialogue with the complainant will neither satisfy him nor the public interest as much-needed resources are taken from the delivery of other public services.
20. With regard to request 1, the council said that the only relevant information is its complaints policy which has been provided to the complainant on previous occasions. It said that the complainant is familiar with the complaints process, having exhausted all possible lines

of complaint, and his rights to approach both the Local Government Ombudsman and the Information Commissioner. The Commissioner does not consider that there is any value in requesting information which has already been provided.

21. The council provided the Commissioner with a copy of the Local Government Ombudsman complaint outcome letter concluding that the complaint regarding whether the council has ensured that its contract with Green Oak Park Bowling Club has been complied with was closed because there was no evidence of injustice. The Commissioner views this as supporting the council's assertion that the complainant is being unreasonably persistent in pursuing his issue about Green Oak Park and its bowling club.
22. Turning to the purpose and value of the requests, the Commissioner notes that they relate to the council's complaints procedure, the administration of Green Oak Park bowling club, and financial assistance provided by the council to any bowling club.
23. When considered in isolation, the requests could appear to have serious purpose and value. However, when considered in the context and history of the case, including the existence of vexatious 'indicators' as detailed in the aforementioned guidance on vexatious requests, and the fact that the complainant has already been provided with the council's complaint procedure, the Commissioner does not consider that the purpose of the requests justifies the disproportionate effect on the authority.
24. Furthermore, and again taking into account the background of the case, the Commissioner considers that further requests related to the issue could cause harassment and distress to staff. The Commissioner also considers that the requests in this case appear to be a means of furthering his grievance with the council which can be considered as inappropriate use of information rights under the FOIA. 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 requests vexatious. Accordingly, the Commissioner finds that section 14(1) has been applied appropriately in these instances.

Right of appeal

25. 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: GRC@hmcts.gsi.gov.uk

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

26. 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.
27. 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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF