

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 March 2015

Public Authority: Lanteglos by Fowery Parish Council

Address: clerk@lanteglosbyfowey.org.uk

Decision (including any steps ordered)

1. The complainant has requested copies of correspondence and invoices sent between Lanteglos by Fowery Parish Council (the council) and its auditor and bank for a specific period.
2. The council initially responded by providing some information but refusing the remainder under sections 43(2) and 41 of the FOIA. This was upheld in its internal review.
3. During the Commissioner's initial investigations the council amended its response to rely on section 14(1) of the FOIA as it considered the request to be vexatious.
4. The Commissioner's decision is that the council has correctly relied on section 14(1) of the FOIA to withhold the information.
5. The Commissioner does not require the council to take any steps.

Request and response

6. On 6 June 2014, the complainant wrote to the council and requested information in the following terms:

"...I request copies of all correspondence to and from Lanteglos Parish council (and any of its delegated representatives) and Santander Bank from May 2013 to the current date.

I would also request copies of all correspondence between Lanteglos Parish council (and any of its delegated representatives) and the auditor of the 2012/13 accounts, [name redacted], from May 2013 to today date.

I would also request copies of the referred to "attached reports" for the invoices covered by cheques N05 1106; 1090; 1070; 1038."

7. The council responded on 1 July 2014. It provided copies of the annual returns for 2012/13 and 2013/14 that were sent to the auditor along with the associated papers.
8. The council then refused to provide the remaining documents under section 43(2) of the FOIA, as it considered the information related to commercially sensitive information relation to the council's business affairs.
9. The council also considered that the reports associated with cheques were exempt under section 41 of the FOIA, as information provided in confidence.
10. The complainant requested an internal review on the 8 July 2014. The council provided its internal review on the 28 July 2014, maintaining its position.

Scope of the case

11. The complainant contacted the Commissioner on the 19 August 2014 to complain about the way his request for information had been handled.
12. During the Commissioner's initial investigations, the council amended its decision for refusing to provide the remaining information. The council now determined that section 14(1) of the FOIA was engaged as it considered the request to be vexatious. It also considered that details of the cheques would still also be covered by section 41 of the FOIA – Information provided in confidence - if it was found section 14(1) did not apply.
13. The council wrote to advise the complainant of this on the 20 December 2014.
14. The complainant has advised the Commissioner that he is not satisfied that his request has been refused as vexatious.
15. The Commissioner considers that the scope of the case is to determine whether the council is correct to rely on section 14(1) of the FOIA to refuse the remaining request. He will only go on to consider whether section 41 of the FOIA is engaged to the details of the cheques if he finds the request is not vexatious.

Reasons for decision

Section 14(1) of the FOIA – Vexatious requests.

16. Section 14(1) of the FOIA 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.
17. The term “vexatious” is not defined in the FOIA. The Upper Tribunal considered the issue of vexatious requests in the case of the *Information Commissioner v Devon CC & Dransfield*¹. 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 establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.
18. 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.
19. 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 must be vexatious. All the circumstances of the case will need to be considered in reaching a judgement as to whether a request is vexatious.
20. The council has provided the Commissioner with its reasons as to why it has relied on section 14(1) of the FOIA to refuse the request.

[Paragraphs 21 to 38 have been redacted from the website version of the decision notice, which contains the analysis of the application of section 14(1) of the FOIA. The paragraphs have been redacted due to the specific details of the arguments supplied and discussed making it impossible to anonymise the

¹ GIA/3037/2011

² <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

complainant. Unredacted copies of this decision notice have been provided to both the complainant and council].

39. In the Commissioner's opinion, this request falls into the Upper Tribunal's definition of a vexatious request, as set out in paragraph 17 above, in that the request is a "*manifestly unjustified, inappropriate or improper use of a formal procedure.*"
40. On consideration of the above, the Commissioner is satisfied that the council has correctly relied on section 14(1) of the FOIA.
41. As he has found that section 14(1) is engaged, he has not gone on to consider the application of section 41 of the FOIA.

Right of appeal

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

Website: 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

Andrew White
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