

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 October 2015

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

Decision (including any steps ordered)

1. The complainant has requested information regarding financial assistance Sheffield City Council has given to every bowling club which is a Sheffield City Council asset.
2. The Commissioner's decision is that Sheffield City Council has correctly relied on section 17(6) of the FOIA and was therefore not obliged to respond to the information request.

Background

3. On 11 November 2013, the complainant made three information requests of Sheffield City Council ("the Council"). One request asked as follows;

"How much financial assistance as Sheffield City Council given, donated or provided to every bowling club of which Sheffield City Council own, from January 2012 to September 2013 inclusive."
4. In his letter of 11 November 2013 the complainant described himself as "as a victimised member of the public".
5. The Council ultimately responded by refusing to provide the requested information stating that it considered the requests were vexatious for the purposes of section 14 FOIA.

6. On 24 December 2013, the complainant complained to the Commissioner and the Commissioner investigated that complaint.
7. The Commissioner considered whether the Council was correct to apply section 14(1) FOIA to the complainant's three requests of 11 November 2013. In his Decision Notice FS50529749, he concluded that the Council had correctly relied on section 14 in relation to those requests and the Council was therefore not required to respond to them
8. The complainant appealed the Commissioner's decision to the Information Tribunal. In its issued decision EA/2014/0179, (dated 5 June 2015) the Information Tribunal concurred with the Commissioner that the requests from the complainant had become a significant burden on the Council and that there was an unreasonable persistence and frequent overlapping of requests.
9. The Information Tribunal further noted that the complainant's original request in isolation had a serious purpose but the amount of communications sent had reached such a level that they now lacked a serious purpose or value and the current requests were likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
10. The Information Tribunal went on to dismiss the complainant's appeal and uphold the Commissioner's decision.

Request and response

11. On 26 February 2015, the complainant requested from the Council information of the following description:
 - Please provide all documentation as to how much financial assistance the Council has given, provided or donated to every bowling club which is a Council asset from October 2013 to December 2014
12. The Council responded on 18 March 2015. It stated that it considered the request to fall within the scope of the Commissioner's Decision Notice FS50529749 and was similarly vexatious. Accordingly, as it was a vexatious request, it was not required by FOIA to comply with it.
13. Following an internal review the Council wrote to the complainant in an undated letter. It stated that it upheld its original decision and also confirmed its reliance on section 17(6) when read together section 14.

Scope of the case

14. The complainant contacted the Commissioner on or about 21 April 2015 to complain about the way his request for information had been handled.

Reasons for decision

15. Section 1(1) of FOIA provides that:

Any person making a request for information to a public authority is entitled:

“(a) to be informed in writing by the public authority whether it holds information of the description specified in the request,

and

(b) if that is the case, to have that information communicated to him.”

16. Section 14 of the FOIA says that a public authority does not have to comply with a request for information if the request is vexatious.

17. Section 17(6) states that a public authority is not required to provide a refusal notice (as required by section 17(5)) where:

“(a) the public authority is relying on a claim that section 14 applies,

(b) the authority had given the applicant a notice, in relation to a previous request for information stating that it is relying on such a claim, and

(c) it would in all the circumstances be unreasonable to expect the authority to serve a further notice under subsection (5) in relation to the current request.”

18. Section 17(6)(a) requires that the public authority is relying on a claim that section 14 applies. During the Commissioner’s investigation the Council confirmed (as it had stated to the complainant) that it was relying on section 14 as it believed the request to be vexatious.

19. Section 17(6)(b) requires that the public authority must have previously issued a refusal notice stating that it is relying on section 14.

20. The Commissioner notes that the Council in its response (dated 14 November 2013) to the complainant's earlier requests had provided him with a notice stating it was relying on section 14 not to provide the requested information.
21. The Commissioner is therefore satisfied that the Council previously informed the complainant, via a refusal notice, that it relied on section 14 not to provide requested information. The requirements of section 17(6)(b) are therefore met.
22. Moving to section 17(6)(c), on the issue of whether it would be unreasonable to expect the Council to respond to the request made on 26 February 2015. The Commissioner has considered whether the Council is correct that this request does relate to the complainant's long running and ongoing grievance with it. He has also considered whether, even if that is the case, the request nevertheless has some overriding value that means it would be reasonable for the Council to respond to it.
23. First, the Commissioner agrees from the wording of the request and from his previous knowledge of the complainant's dealings with the Council that the request does relate to his ongoing grievance with the Council. Indeed the requests of the 11 November 2013 (as laid out above) and 26 February 2015 are very similarly worded save for the reporting dates of the information sought.
24. In isolation, the request appears to have serious purpose and value. However, when considered in the context and history of the case, as more fully laid out in FS50529749 and not contradicted by the Information Tribunal in EA/2014/0179, the Commissioner does not consider that the purpose of the request justifies the disproportionate effect on the authority.
25. Furthermore, and again taking into account the background of the case, the Commissioner considers that the further request related to the background issues between the parties could cause harassment and distress to staff of the Council. The Commissioner also considers that the request in this case appears to be a means of furthering his grievance with the Council which can be considered an inappropriate use of information rights under the FOIA.
26. The Commissioner therefore finds that section 17(6) did apply in this case and that the Council was not obliged to respond to the complainant's request of 26 February 2015.

Right of appeal

27. 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 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

28. 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.
29. 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

Alexander Ganotis
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