

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 23 March 2017

**Public Authority:** Southwark Council

**Address:** PO BOX 64529  
London  
SE1P 5LX

#### Decision (including any steps ordered)

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1. The complainant has requested information from Southwark Council ("the Council") relating to the Council's Habitual Complainants Policy.
2. The Commissioner's decision is that the Council has correctly refused to comply with the request on the grounds that it is a repeated request and falls under section 14(2) of the FOIA.
3. The Commissioner requires the Council to take no steps.

#### Request and response

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4. On 15 July 2016, the complainant wrote to the Council and requested information in the following terms:  
*"Statement: My interpretation of the Habitual Complaints Policy is (1) To be registered an habitual complainer the Council needs to provide evidence that a formal complaint has been received through the Corporate Complaints Policy (2) The Council must provide evidence that they have provided an adequate and final response at stage 2 of the Corporate Complaints Policy.  
FOI request: Please provide a copy of any Council document that contradicts this statement".*
5. The Council responded on 1 August 2016. It confirmed that it held no documentation that contradicts the statement detailed in the request. It explained that the statement was the complainant's interpretation and it was not a valid request in accordance with section 8(1)(c).

6. Following an internal review the Council wrote to the complainant on 23 August 2016. It upheld its position that it was correct to refuse the request. The Council explained that this is because the request is substantively the same as a previous request the complainant had made. The Council referred the complainant to its responses to previous requests where it considered the requests fell under section 14(2). The Council explained that it was not obliged to respond to a request, if it has recently responded on a similar matter from the same requester.

### Scope of the case

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7. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
8. He disagreed with the Council's handling of his request.
9. The Commissioner has considered whether the Council was correct to refuse the request under section 14(2) of the FOIA.

### Reasons for decision

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#### *Section 14(2) - repeated requests*

10. Section 14(2) of the FOIA states that:

*"Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request".*

11. This means that section 14(2) of the FOIA may only be applied when all three of the following criteria have been fulfilled:
  - the request is identical or substantially similar to a previous request from the same requester;
  - the authority has previously provided the information to the requester or confirmed that it is not held in response to the earlier FOIA request; and
  - a reasonable interval has not elapsed between the new request and compliance with the previous request.

*Was the request made by the same requester?*

12. The Commissioner is satisfied that the request has been made by the same requester.
13. The next step for the Commissioner to consider is whether the request is identical or substantially similar to the complainant's previous request.

*Is the present request identical or substantially similar?*

14. The Commissioner's published guidance<sup>1</sup> on identical requests states:

*"A request will be identical if both its scope and its wording precisely matches that of a previous request.*

15. The guidance states that a request will be substantially similar if it meets the following criteria:

- *The wording is different but the scope of the request (the criteria, limits or parameters which define the information being sought) is the same as for a previous request.*
- *The scope of the request does not differ significantly from that of the previous request (regardless of how the request is phrased).*

16. During the Commissioner's investigation, the Council provided the Commissioner with a copy of the complainant's request dated 11 April 2016.

17. This sought the following information:

*"If as the email below states "a customer can be considered habitual without making a formal complaint" Please provide a copy of the policy, procedure and process that would be implemented to register a customer an habitual complainer who has not first made a formal complaint according to HCP [Habitual Complainants Policy] para 3.2 does require a formal complaint to be made so clear there must be another policy".*

18. The Council responded on 3 May 2016 and stated that it held no information in response to the request as the Council only has one Habitual Complainants Policy. The Commissioner has considered a

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<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1195/dealing-with-repeat-requests.pdf>

number of complaints from the complainant and she is satisfied that the complainant has a copy of the Habitual Complainants Policy. It is not disputed that the complainant has a copy of the Habitual Complainants Policy.

19. The Commissioner accepts that the request under consideration in this notice and the complainant's request of 11 April 2016 relates to the same subject matter – the correct application of the Habitual Complainants Policy.
20. The Commissioner is also satisfied that the two requests seek the same information, although she does accept the requests are worded differently. The Commissioner's view is that both requests ostensibly seek a version of the Habitual Complainants Policy which states that a formal complaint does not need to be made before the Council determines an individual to be a habitual complainant. This is despite the complainant being told that there is only one Policy, which as stated is already in the complainant's possession.
21. The next step for the Commissioner to consider is whether a reasonable interval has elapsed between the new request and compliance with the previous request.

*Has a reasonable interval elapsed?*

22. The previous request was made on 11 April 2016 and a response was provided on 3 May 2016. The period of time between the response and the making of the request on 15 July 2016 is relatively short and there is no evidence to suggest that the existing Policy would likely have been amended or superseded during this interval. The Commissioner does not therefore consider that a reasonable interval has elapsed.

*The Commissioner's decision*

23. Based on the information provided by the Council, the Commissioner is satisfied that the Council was correct to refuse the request as repeated in accordance with section 14(2).

## **Right of appeal**

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24. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

25. 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.
26. 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** .....

**Alun Johnson**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**