

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 1 November 2017

**Public Authority:** Bournemouth Borough Council

**Address:** Town Hall  
Bourne Avenue  
Bournemouth  
BH2 6DY

#### **Decision (including any steps ordered)**

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1. The complainant has requested information on a variety of matters, including health and safety, staffing and volunteers. The Council refused the complainant's first request under section 12, and then under section 14(1). Subsequent requests were refused under section 14(1).
2. The Commissioner's decision is that Bournemouth Borough Council was correct to apply section 14(1) to subsequent requests. She also finds that the Council was not obliged to issue refusal notices for subsequent requests in accordance with section 17(6).
3. The Commissioner requires no steps to be taken as a result of this decision.

#### **Requests and response**

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4. Between 27 November 2016 and 14 July 2017 the complainant made ten requests for information. The requests, and the Council's response, are detailed in Annex 1.

## Scope of the case

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5. The complainant contacted the Commissioner on 29 March 2017 and 17 July 2017 to complain about the way seven of his requests for information had been handled. The complainant maintained that his requests were not vexatious.
6. Although the complainant has only complained about the handling of seven of his information requests by the Council, the Commissioner has considered the ten requests made between 27 November 2016 and 14 July 2017. This is because there are similarities between the ten requests on which the Council has based its application of sections 14(1) and 17(6), and the first three requests and refusal notices form the basis and context for subsequent refusals. The Commissioner therefore considers the scope of this case to be whether the Council correctly applied sections 14(1) and 17(6) to requests four to ten in Annex 1, in light of the refusal of requests one to three.

## Reasons for decision

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### Sections 14(1) and 17(6)

7. Section 14(1) of the FOIA does not oblige a public authority to comply with a request for information if it considers it be vexatious.
8. Section 17(6) allows a public authority to not issue a refusal notice to a requester if it is relying on section 14(1), has already notified the requester of doing so, and it would be unreasonable to expect the authority to serve a further notice.

### The Council's View

9. In correspondence with the Commissioner, the Council explained that the complainant's requests were in some way linked to his time as a volunteer at a local aviary. The volunteer agreement between the complainant and the Council was terminated by the Council in March 2016, following complaints about the complainant's conduct from other volunteers. During and after the volunteer placement, the complainant made several complaints regarding health and safety issues at the aviary. These were responded to by Council officers, and then investigated and addressed by the Council under its 3 stage complaints procedure.

Dissatisfied with this, the complainant complained to the Local Government Ombudsman, who did not uphold the complaint.

10. The complainant's first request, submitted on 27 November 2016, was initially refused under section 12 of the FOIA as it exceeded the appropriate costs limit. The Council provided advice and guidance on refining or amending the request. The complainant insisted the original request was answered, and at this point the Council determined the request as vexatious. A further two requests were received on 6 December 2016 and 10 December 2016, which were also deemed vexatious. In its refusal notices under section 14 for all three requests, the Council explains why it considers them to be vexatious, referring to the previous history with the complainant including the LGO complaint. Each notice also states:

*'Taking previous correspondence between yourself and various officers into account we believe that you will not be satisfied with any response provided and will submit numerous follow up enquiries no matter what information is supplied.'*

*'Taking into context your previous correspondence we consider these requests to be a cumulative result of your general dissatisfaction with our service, rather than using the Freedom of Information Act in the spirit of what it was originally intended for. Further, the request has the effect of harassing the Council (even though the language was not hostile), as allegations of illegality and impropriety have been made at the same time as the requests.'*

*'With all of the above in mind we have reason to believe that responding to the current requests will impose a disproportionate burden on the authority.'*

*'Please note, Section 17(6) of the Act allows the Council to not issue a refusal notice to any further vexatious or repeated requests on the same or similar topics.'*

11. The Council have noted that the complainant's first request came 12 days after the Local Government Ombudsman failed to uphold the complainant's complaint. Until this point, the complainant had made no requests under FOIA. For the first three requests, the Council sent a review letter to the complainant on 13 March 2017, stating:

*'Although your motive for submitting FOI requests to the Council is not stated within the correspondence it is fair to assume that'*

*this route was taken once the complaints process was exhausted, as requests were not received before this point. Taking into account previous email correspondence with the Council and the LGO complaint it appears clear that your motive for submitting the requests is a personal crusade to correct perceived failings by the Council in respect of health and safety issues and the perceived slight on your character due to the termination of your volunteer agreement with the Council.'*

12. In its review letter the Council also made reference to the complainant's previous dealings with staff, and specifically the complainant's *'belligerent and unreasonable tone'*, with the following examples:

*'It pains me that financial cutbacks across the Council may well be a barrier to doing the right things but this will not appease the parents of a child that gets killed (email dated 14th December 2015)'*

*'It was bad enough that the law should be broken which puts the lives of Volunteers and the Public at risk but to then terminate my Volunteer agreement by return suggests utter neglect, contempt and disdain towards the Volunteers and the Public. It also suggests this was an attempt to 'gag' me... (email 25<sup>th</sup> May 2016)'*

And in response to the refusal notice issued under section 12 to the complainant's first request:

*'Hence it seems Bournemouth Borough Council DO NOT ALWAYS CONFORM to the very LAWS and BEST PRACTICES that they enforce. Certainly it is NOT acceptable for any Council to employ people who have a duty to Enforce the Law only to then BREAK the LAW themselves be it through negligence and/or incompetence (email 29<sup>th</sup> December 2016).'*

13. The Council has considered the value, or serious purpose of the complainant's requests in its review letter and holds that as they as they are linked to health, safety and volunteering matters already dealt with at length by appropriately qualified staff and the LGO, they are of little value or serious purpose. It goes on to note that the complainant has also submitted three requests to another Council on similar subjects and as a result believes that his behaviour *'shows all the hallmarks, of an obsessive and unreasonable campaign lacking in any serious purpose'*

14. For the following seven requests as detailed in Annex 1, the Council has deemed them all vexatious and issued reminders of section 17(6) to six of them.
15. In its communication with the Commissioner, the Council has raised the matter of the complainant's behaviour towards Council staff, and in particular the individual who has been the initial responder to the complainant's requests. On 20 February he sent the following email to the Council's Chief Executive:

*'Alarming, I seem to have exposed a rather disruptive and negative employee across Bournemouth Borough Council namely (redacted). (Redacted) is refusing to comply claiming my FOI request is vexatious which is frankly ludicrous.*

*(Redacted)'s approach is disrespectful and indeed insulting to both myself and Theresa May, Prime Minister and indeed Matthew Taylor who is leading the Review.*

*In my professional opinion (redacted)'s failure to comply brings Bournemouth Borough Council into disrepute and where his/her employment across the Council should no longer be tenable.'*

16. He has repeatedly misspelled her name, at one point referring to her first name as 'Liar', which the Council believes is deliberate, especially as he had previously apologised for misspelling her name and written it correctly. On 14 July 2017, following many email exchanges with the named employee, the complainant sent the following email:

*'I have submitted a number of FOI requests but seem to have exposed a fault. My FOI requests are unrelated and they are reasonable and appropriate.*

*However, it seems there may be an Automatic or a Robotic response which is signed by a fictional Liar (redacted). Certainly it seems that my FOI requests have not been correctly reviewed perhaps as an austerity measure to save or divert money.*

*To be best sure that this Liar (redacted) is not a Robot, please could you kindly respond to this TEST FOI request by filling in the missing letters against the ? marks against the sequence if the first 6 letters of the Alphabet:*

*A,B,?, D,?,F'*

17. In addition, on 27 May 2017, the complainant sent the member of staff a 'LinkedIn' request to join his network, showing not only

that he knew how to spell her name, but that he had also researched her on the internet. Along with the robotic test email, Council considers this behaviour harassment with the sole purpose of causing distress to the individual.

18. For the seven FOI refusals about which the complainant has asked the Commissioner to investigate, the Council has made the following points:

- Law Makers, Law Enforcers and Law Breakers: it is clear that the complainant is attempting to reopen an issue which has already been addressed by the Council and LGO complaints process.
- Council Employee Numbers 2006-16: This is substantially similar to the complainant's request submitted on 3 December 2016. Correspondence from the complainant during the Council's complaints process highlighted his belief that the termination of his role as volunteer at the local aviary amounted to defamation of character and unfair dismissal.
- Fire Extinguisher Testing Statistics: Again, the Council maintains this is intrinsically linked to the complainant's concerns regarding health and safety at the aviary which have already been addressed by the Council and the LGO.
- Scrutiny of Bournemouth Financial Accounts: Linked to the previous request for Fire Extinguisher Statistics and sent on the same day the complainant received a section 17(6) reminder for that request, the Council maintains this is another attempt to reopen the previous complaint already covered in the LGO decision.
- Street Lighting Colour Coding Strategy (one of three submitted on the same day): The Council believes this is an inane/trivial request that lacks any purpose, and was made for amusement or to harass / cause disruption to the Council.
- Employee Profiles for 2016-17 (one of three submitted on the same day): This request was similar to the second and fifth requests made by the complainant, save for a different time period. By submitting a similar request, the Council believes this shows the complainant takes an 'unreasonably entrenched position'.

- Council owned buildings (one of three submitted on the same day): The Council considered this request to be vague, and would normally have approached the requester for clarification. However given the context of the complainant's request and history of correspondence, the Council deemed the request vexatious with the purposes of wasting time and harassment.
19. Following his request to the Council about Bird Flu made on 10 December 2016, the complainant also contacted DEFRA suggesting that the Council had not taken steps to separate aviary birds from wild birds. The complainant also copied two local councillors into subsequent correspondence. The Council considers this to be further evidence of the complainant's *'oppressive pursuit of grievance'*.
  20. The Council acknowledges that taken in isolation, some of the FOI requests made by the complainant might not be considered vexatious. However, when looked at in the context of the complainant's history with the Council, his behaviour towards Council staff, the language and tone of his communications, the subject matters of the requests and their often repetitive nature, all the requests detailed in the Annex are deemed to be vexatious.
  21. The Council notes the burden placed on it through its previous dealings with the complainant as well as corresponding about his FOI requests. Given the history with the complainant, the Council considers it highly likely that had it responded in a normal way to the requests (where the language and tone do not go beyond what might be characterised by a reasonable level of frustration), it would have received a *'barrage of further correspondence and requests'*.
  22. The Council believes that the complainant is motivated by *'a mission to expose health and safety failings'* following the termination of his volunteering agreement (which he considers to be a consequence of his attempts to expose these failings), regardless of the fact that they have been responded to and dealt with by both the Council and the LGO. Therefore responding to his requests *'is unlikely to bring about a resolution or result in a cessation of the complainant's behaviour towards the Council'*. In the complainant's response to the section 17(6) notice issued following his 'Fire Extinguisher Testing Statistics' request, he writes:

*'I am concerned that peoples (sic) LIVES may be put at RISK of INJURY or DEATH by failures to which Bournemouth Borough Council have a LEGAL DUTY to preserve'*

demonstrating his ongoing persistence about issues that have already been addressed. In his LGO complaint form, the complainant states:

*'With effectively sacking me this amounts to defamation of character'*

And in an email to the Council dated 25 June 2016 says:

*'I will withdraw my engagement with the Local Government Ombudsman as well as Legal Action against Bournemouth council conditional upon Bournemouth Council making a £20,000 donation to a registered charity of my choice and in my name'*

23. The Council recognises that not all of the complainant's requests contain allegations of negligence or misconduct, nor capitalisation of words in an aggressive and accusatory manner, but holds that *'obsessiveness and future burden trumped the absence of any degree of harassment in these cases'*

### The Complainant's Position

24. The complainant initially contacted the Commissioner on 29 March 2017 with a complaint about the handling of his request submitted on 17 January 2017 about 'Law Makers, Law Enforcers and Law Breakers' (his fourth request). In his complaint to the Commissioner he maintains that the Council have incorrectly deemed his complaint vexatious:

*'I recently submitted a FOI request to Bournemouth Borough Council which they refused to answer by claiming it was vexatious.'*

*I have discussed this with a mass of friends, family and members of the public (clubs and events) and they all agree that my FOI request was appropriate.'*

*My concern is that I have proof that Bournemouth Borough Council do not appear to comply with the LAW e.g. notices from DEFRA and the Health & Safety Executive.'*

*Hence it appears Bournemouth Borough Council are in utter contempt of the LAW's that they have a DUTY to ENFORCE. As a consequence, peoples (sic) lives may be put at risk of DEATH.'*



25. On 17 July 2017 the complainant contacted the Commissioner again, with a second complaint about the Council's handling of his requests 5-10 in Annex 1, which had been refused and section 17(6) applied. In his complaint he explains:

*'My concern is that over recent months I have been submitting Freedom of Information requests to Bournemouth Borough Council. I am getting a 'standard response/template' claiming that my FOI request is vexatious and that the Council have refused to comply.*

*I believe the Council are unlawfully claiming my FOI requests are vexatious despite my reassurance that they are not. Hence I am now mindful that this appears to go way beyond simple incompetence, negligence or contempt, indeed I may have exposed scandal or even corruption.'*

26. The Commissioner sent a letter to the complainant on 17 August 2017 outlining the scope of her investigation into the complaints. The complainant replied, giving background information about his role as a volunteer in the Council and the circumstances surrounding his departure. He explained:

*'I was further shocked that Health and Safety Law was non compliant. The Fire Extinguisher was last tested in 2002/3 and as a Blue Dry Powder variant was illegal. The legionnaires (sic) disease log was long out of date, there was no Electrical Safety Certificate, no Asbestos certificate and no security. Furthermore there were trees and large branches baring down on the Aviary, occasionally branches would fall onto the Aviary and cause damage and Aviary Birds would be killed as a result.*

*It was absolutely clear that Bournemouth Borough Council were in neglect/contempt of their duties and responsibilities.*

*I complained to the Council who took me through their 'three stage complaints process' hence matters were reviewed by their work colleagues in other departments. The Council decided to terminate my Volunteer agreement for what seemed to be because I had exposed their failures. Because Volunteers are not covered under Employment Law there was nothing I could do.'*

27. On receiving reminders of section 17(6) in response to his requests, it is clear that the complainant believes that the Council is incorrectly deeming his requests as vexatious, and makes no connection between them:

*'Thank you for your response with respect to my FOI requests. I'm confused that it may have been rejected or that my FOI requests has been misunderstood and/or misinterpreted perhaps as a training shortcoming.*

*Please understand that this FOI is not vexatious and has no relationship with other FOI subjects. Hence please could this FOI request be reviewed by a suitably trained and experienced employee who is capable and who can consider the best interests of the Public.*

*Mindful that this is a key matter concerning Public Finances and Accounting I am wary that money could be plundered or misplaced, etc. Hence in light of anti-corruption and bribery LAWS I must demand that my FOI requests is honoured in the spirit of the LAW.'*

*Please accept my profound apology if I have misunderstood or misinterpreted your response. Hence please clarify the status of this FOI request and the action I need to take to ensure it is actioned in the spirit of FOI disclosure and transparency.'*

### The Commissioner's View

28. Despite the complainant's sometimes adversarial history with the Council, it is important to remember that for the purposes of FOIA, it is the request that may be deemed vexatious, and that requests are motive and applicant blind. The FOIA was designed to give individuals a greater right of access to official information with the intention of making public bodies more transparent and accountable.
29. Whilst there is no definition of the term vexatious in the FOIA, Tribunal decisions have provided insight and guidance in determining a request as vexatious. In ['Information Commissioner v Devon County Council & Dransfield'](#), the Upper Tribunal took the view that the ordinary dictionary definition of vexatious is of limited use, as deciding whether a request is vexatious depends on the circumstances surrounding that request. The Tribunal commented that vexatious could be defined as the '*manifestly unjustified, inappropriate or improper use of a formal procedure*'. This definition clearly establishes that the concepts of proportionality and justification are relevant considerations in deciding whether a request is vexatious.
30. In the Dransfield case, the Tribunal also found it instructive to assess 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) harassment or distress of and to staff. However consideration of a request as vexatious is not a tick box exercise and the Tribunal noted *'there is, however, no magic formula – all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.'*

31. The Commissioner has issued guidance on dealing with vexatious requests<sup>1</sup>. The guidance includes a number of indicators that may help to identify a request as vexatious. However these indicators are neither exhaustive nor definitive, and all the circumstances of the case will need to be considered in reaching a judgement as to whether a request is vexatious. Congruous with the Tribunal comments in the Dransfield case regarding circumstantial consideration, the Commissioner's guidance states: *'The context and history in which a request is made will often be a major factor in determining whether the request is vexatious, and the public authority will need to consider the wider circumstances surrounding the request before making a decision as to whether section 14(a) applies.'*
32. The Council has argued strongly that it considers all the complainant's requests as vexatious, for reasons detailed in the 'Council's Position'.
33. It is clear to the Commissioner that the complainant believes he is acting in the public interest in the submission of his requests, particularly those relating to health and safety issues.
34. The Council has provided the Commissioner with a sample of the correspondence between Council officers and the complainant during his time as a volunteer at the local aviary and following the termination of his volunteer agreement with the Council. The Commissioner notes that although the Council has made some reference to these in its representations to the Commissioner, it

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<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

has in fact been relatively circumspect. The correspondence from the complainant is often persistent and unrelenting, and at times offensive towards staff and the wider community.

35. Despite the history between the complaint and the Council, when the Council received the complainant's first request, its response was fair and proportionate. Although the request was refused under section 12, the Council provided adequate advice and assistance to the complaint about refining/amending the request:

*'A modified request will be given due consideration provided the work involved does not, again, exceed the fee limit. A modified request could include the following:*

*Date parameters – the request in the current format does not state a time frame that it relates to;*

*Specific service area or event – the request in the current format is Council wide. Please follow link for the Council's*

*Organisational Chart that may help you to refine your request.'*

36. The complainant's response to the Council at this point demonstrates his inability to accept the Council's decision, and continues the pattern of accusatory and persistent communication evident in his role as a volunteer with the Council:

*'Thank you for your response with advising that Bournemouth Borough Council are unable to meet my FOI request. The reason being that the Council advise it would take over 18 hours to turn around the information. This suggest there are high volumes of Volunteers deployed by the Council and that there is not a suitable system/process in place that delivers timely review and processing. Hence this suggests Volunteers could be exposed to serious Health and Safety risks that could amount to serious injury or death, simply because the Council is not readily able to determine the facts.*

*This now concerns me even more as it suggests the Council are negligent and/or incompetent and are not complying with the Corporate Volunteering Policy and which may amount to breaking the LAW.....Hence I must now insist that my FOI request is met and NOT dismissed/diverted given that it is in the best interests of the Public and Volunteers. This will then enable the Council to conduct a formal review and to ensure compliance with the Corporate Volunteering Policy across ALL locations/departments/service units, etc where Volunteers are deployed by the Council.*

*Ignorance should be no excuse for those who try to defend their failings.'*

37. It is clear to the Commissioner that many of the complainant's requests are a result of the termination of his volunteer agreement, and what he considers to be unresolved matters during his time as a volunteer, despite thorough and appropriate actions having been taken by the Council, and these matters then being investigated by the LGO. Without repeating the examples in the Council's position, the Commissioner is of the view that the complainant's requests demonstrate several of the characteristics as detailed in her vexatious requests guidance, and in particular: abusive or aggressive language, burden on the authority, personal grudges, unreasonable persistence, unfounded accusations, intransigence, frequent or overlapping requests, deliberate intention to cause annoyance, disproportionate effort and futile requests.
38. Although some of the requests, if taken in isolation might appear harmless, when considered in the context of other requests and wider history between the Council and complainant, the Commissioner is satisfied that requests 4-10 cause a disproportionate or unjustified level of disruption, irritation or distress, and lack any meaningful purpose or value. The Commissioner therefore concludes that the Council is entitled to apply sections 14(1) and 17(6) to these requests.

## Right of appeal

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39. 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)

40. 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.
41. 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**

## **Annex 1**

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Requests made by complainant to, and response from, Bournemouth Borough Council between 27 November 2016 and 14 July 2017.

### **Request 1, made on 27 November 2016**

#### **Volunteers and Health & Safety Law**

*'Please could Bournemouth Council list all of their premises e.g. Parks and Offices where Volunteer Groups work and advise if they are compliant with Health & Safety Law? This includes ensuring fire extinguishers, fitted electrical appliances, etc are tested annually and replaced in line with Health & Safety Executive (HSE) directives.*

*My concern stems from a Volunteer Group in Bournemouth Gardens who were repeatedly put at risk whereby a Blue Dry Powder Fire Extinguisher was last tested in 2003. This Fire Extinguisher was only replaced this year 2016 despite the Council having received a Risk Assessment and numerous warnings from the Lead Volunteer.*

*Another concern is where Mains Power Consumer Distribution Panels and associated Power Cables are neglected resulting in a risk of electrocution and fire.*

*I should also draw your attention to display the HSE Poster 'What you need to know' which details Workers Rights. Failure to comply with Health & Safety Law in the Workplace puts Employees, Volunteers and the General Public lives at risk. I'm particularly concerned where Volunteers are isolated and work alone and exposed to risks that the Council should be managing. After all, it's not only about the Victim but the Loved Ones who are left behind.'*

The Council responded on 6 December 2016, and refused the request as locating, retrieving and extrapolating the information would exceed the £450 costs limited laid down in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. It provided advice and guidance to the complainant in refining the request, and a copy of the Corporate Volunteering Policy.

On 29 December 2017 the complainant replied to the Council insisting that his request was met. Due to the content and tone of the email, along with the request being unrefined / unmodified, and the previous history between the complainant and the Council, a refusal notice was issued under section 14(1). The notice made reference to section 17(6), which allows the Council

to not issue a refusal notice to further vexatious/repeated requests of a same/similar topic.

**Request 2, made on 3 December 2016**

**Council Employee Numbers 2006-16 (1)**

*'I am conducting an investigation with respect to employment levels across Bournemouth Borough Council over the past 10 years 2006 to 2016 ending 5th April each year. Please could you break down the numbers in lists to cover Full Time Employees, Part Time Employees, Temporary Employees, Contracted/Third Party Employees and Volunteers. My request covers all Grades from the CEO down.'*

On 29 December the Council issued a refusal notice to this request under section 14(1), explaining why, and made reference to section 17(6) for further vexatious or repeated requests.

**Request 3, made on 10 December 2016**

**Bird Flu**

*'RE: Bournemouth Aviary, Pine Walk, Bournemouth Lower Gardens*

*URGENT WARNING*

*Please can you advise as a matter of urgency the date/time when Bournemouth Borough Council will complete action in accordance with the 'Bird Flu' (H5N8) declaration that was made on the 06/12/16 by the Dept for Environment, Food and Rural Affairs.*

*Having visited the Aviary, I have noticed that Bournemouth Borough Council do not appear to have taken steps to separate the Aviary Birds from the Wild Birds which descend on the Aviary Roof, the Overhanging Trees and around the Public Viewing Areas.*

*Two examples that need immediate review are as follows: 1. Clear plastic (to allow light spectrum) covering should be extended across the whole roof area and not just in part which is currently the case.*

*2. There are a number of Drinking Water Bowls that have been placed directly below the roof over-hang hence they become contaminate where rain water will flush wild bird droppings, etc into the water bowls. These water bowls should be placed under cover towards the rear of the Aviary where the existing partial roof covering extends.*

*I am mindful that the Local Authorities/Councils enforce compliance upon the Public where each Offence is subject to a Fine of up to £5,000 and up to 3 months in Prison. Should Bournemouth Borough Council themselves*



*fail to comply with the Law then who should Enforce the Law upon the Council? Clearly the Public should not expect Law Enforcers and Law Breakers to be the same party hence I require the Councils clear direction regarding the point of Law above.'*

On 29 December the Council issued a refusal notice to this request under section 14(1), explaining why, and made reference to section 17(6) for further vexatious or repeated requests.

A review letter was issued to the complainant on 13 March 2017 in relation to his first three requests, upholding the application of section 14(1).

### **Request 4, made on 17 January 2017**

#### **Law Makers, Law Enforcers and Law Breakers**

*'LAW Makers, LAW Enforcers and LAW Breakers are fundamentals of Society.*

*Where Councils are responsible for Enforcing the Law e.g. compliance with Health and Safety Law. If a Business/Company fails to comply, then Councils have a duty to Enforce the Law and prosecute those who broke it. Penalties could include Fines and Prison sentences. But what if it's the Councils themselves who break the LAW? Councils who by negligence, incompetence or utter contempt FAIL the Public, Employees or Volunteers.*

*FOI Question 1). Who enforces the Law upon Councils who fail to comply with the Law or are Councils immune/exempt from compliance with the Law?*

*FOI Question 2). How many Bournemouth Council employees e.g. Directors, over the past 5 years have been CHARGED with breaking the very Laws that they have a Duty to Enforce?*

*FOI Question 3). Further to Q2, how many of those charged were found GUILTY under the Criminal Justice System?*

*Absolutely no Company, Organisation, Establishment or Individual, etc should be beyond the Law. Furthermore attempted avoidance through e.g. lies, manipulation or corruption should always result in a Prison sentence.*

*I look forward to receiving answers to my 3 FOI questions above.*

The Council responded to this request on 28 March 2017, referring to the refusal notice sent on 29 December 2016. The Council had not responded to the complainant earlier as it considered this request to be vexatious and

linked to previous requests, therefore relying on section 17(6) allowing the Council to not issue a refusal notice.

**Request 5, made on 16 February 2017**

**Council Employee Numbers 2006-16 (2)**

*'I am a Stakeholder representing Theresa May, Prime Minister and Matthew Taylor to conduct an investigation across Modern Employment Practices. The investigation will form the 'Taylor Review'. I have been invited to attend a detailed discussion on Tuesday 7th March 2017 which will include factoring the information disclosed by Bournemouth Borough Council. Therefore please could you supply me in timely fashion with the following information to assist the Taylor Review:*

*1). Please provide me with the Employee Numbers across Bournemouth Borough Council covering the fiscal periods between 2006 – 2016 inclusive.*

*2). Please ensure your information covers all Employees/Other from the CEO down and to include a breakdown of Full Time Employees, Part Time Employees, Temporary Employees, Contracted Employees, Third Party Employees , Volunteers and any other segment of work force contribution.'*

The Council responded on 16 February, with a reminder of section 17(6).

**Request 6, made on 25 June 2017**

**Fire Extinguisher Testing Statistics**

*'Mindful of the recent tragic events in London where Fire Safety Precautions appear to have long been neglected culminating in the loss of life.*

*In 2015/16 I recall a Blue Dry Powder Fire Extinguisher was deployed at a Bournemouth Council Building in the Bournemouth Lower Gardens and where the Fire Extinguisher was originally installed during 1999. The building in question was occupied by Volunteers with an occasional visit by Contractors and presented a Tourist Attraction to both locals and visitors to Bournemouth.*

*Alarmingly this Fire Extinguisher was last tested in 2003 despite I believe that the Law states they should be tested annually (13 years overdue). I'm also wary that these dry powder fire extinguishers may have also been classed as 'illegal' given that they may cause respiratory infections or cancer.*

*Hence it appears the Volunteers and members of the Public lives were being put at risk by the apparent failure of Bournemouth Borough Council to comply with the LAW, be it negligence, incompetence, utter contempt or other. I would add that the Council were repeatedly WARNED and where Electrical Safety was also a major concern.*

*I am concerned that Bournemouth Borough Council may not be maintaining its HSE LEGAL DUTIES at Council buildings in particular those which are occupied by Volunteers.*

*My FOI request is please can Bournemouth Borough Council advise how many Fire Extinguishers are deployed at Council Buildings including Outbuildings, Libraries, Tourist Sites, etc and what percentage of these are known to be compliant with HSE/LAW?*

*Please can the Council also advise when an INVENTORY was last conducted at ALL Council Buildings and if it highlighted any 'out of date' or 'illegal' Fire Extinguishers and how long it took (days, weeks, months, years) to resolve each case?'*

The Council considered the request to be vexatious as it was linked to previous requests about health and safety, volunteers and the aviary where the complainant had volunteered. A response was sent to the complainant on 11 July 2017 with a reminder section 17(6).

### **Request 7, made on 12 July 2017**

#### **Scrutiny of Bournemouth Financial Accounts**

*'I understand that Bournemouth Borough Council deployed a BLUE DRY POWDER Fire Extinguisher at one of its Buildings (Bournemouth Aviary, Pine Walk) during 1999 and where it was then tested annually up until 2003. I also understand that after 2003 NO FURTHER TESTING was completed until 2016 when the Fire Extinguisher was then replaced hence approximately 13 years over due (sic).*

*Consequently it appears that the Council neglected its Legal Duty to comply with Health and Safety LAW whereby Fire Safety Checks including the checking of Fire Extinguishers MUST be completed annually to avoid putting peoples (sic) LIVES at risk of DEATH.*

*In light of this I am mindful that Bournemouth Borough Council must have surely financially accounted for the annual Fire Extinguisher test/check given that it was a LEGAL REQUIREMENT. Hence the Annual Financial Accounts must surely have shown a surplus/delta which reflects the Tax that the Council Collects against the Outgoings.*

*Therefore please can Bournemouth Borough Council advise WHERE EXACTLY the MONEY that should have been used to cover the annual Fire Extinguisher safety checks between 2003 and 2016 has GONE?*

*My concern is that other Fire Extinguishers and other Fire Precaution Checks across other Council Buildings are NOT being completed, hence the question again is WHERE IS THE MONEY GOING?*

*Please note this FOI request is NOT VEXATIOUS, I am simply trying to determine if Bournemouth Borough Council are accurately presenting its financial accounts, also if any shortfalls or surplus is investigated to align with Services which were not carried out.*

*It may simply be that this is simply a ONE OFF mistake by the Council but the Public have a right to be sure given the impact on Fire Precautions and Fire Safety Checks, etc that could be neglected whilst putting peoples (sic) LIVES at RISK.*

*Alternatively please advise if it was 'AUSTERITY' savings that resulted in Fire Precaution/Safety Check budgets being removed.*

*Please accept my apology if I have misunderstood matters where I trust you respect and appreciate my concerns as being in the PUBLIC INTEREST following the recent fire in London which tragically killed almost 100 people.'*

The Council responded on 13 July 2017 with a reminder of section 17(6).

### **Request 8, made on 14 July 2017**

#### **Street Lighting Colour Coding Strategy**

*'I have noticed that the Green colour lighting poles e.g. in Bournemouth Lower Gardens have/ are been /being been (sic) painted Grey. Please may I request the following information regarding this strategic change:*

- 1. What triggered the need to review the colour of the public lighting posts?*
- 2. When did the trigger first get a hearing and when did the review consultation start and finish?*
- 3. What are the time scales to complete the strategy to change from green to grey?*
- 4. What factors were considered with choosing the Colour Grey over other colours?*
- 5. What is the budget to complete the works?*
- 6. When is the next colour change review due?'*

The Council responded on 14 July 2017 with a reminder of section 17(6).

**Request 9, made on 14 July 2017**

**Employee Profiles for 2016-17**

*'As a Stakeholder for the 'Taylor Review' as instigated by Theresa May (Prime Minister), please could you disclose the Bournemouth Borough Council Employee profiles as a percentage of 100% or using actual numbers based upon that which existed at the start of this Tax year (2017).*

*Please could you catagorise (sic) the profile as follows:*

- 1. Part Time Employees.*
- 2. Full Time Employees.*
- 3. Temporary/Seasonal Employees.*
- 4. Volunteers.*
- 5. Other.'*

The Council responded on 14 July 2017 with a reminder of section 17(6).

**Request 10, made on 14 July 2017**

**Council owned buildings**

*'Please could you advise how many Council Buildings within the BH1 postcode area could potentially be used for Residential purposes?*

*Please could you break the numbers down into two groups as follows:*

- 1. Council Buildings that could be sold for private enterprise/business to apply for planning permission to turn into Flats, Homes, Care/Nursing Homes, etc.*
- 2. Council Buildings that could be converted into Council Flats, Homes, Care/Nursing homes, etc.'*

The Council responded on 14 July 2017 with a reminder of section 17(6).