

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

### **Decision notice**

**Date:** 6 October 2022

**Public Authority:** Hampshire County Council  
**Address:** The Castle  
Winchester  
SO23 8UJ

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

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1. The complainant requested information from Hampshire County Council ("the Council") relating to Hampshire Police and Crime Panel. The Council refused to provide the requested information citing section 14(1) (vexatious request) of the FOIA as its basis for doing so.
2. The Commissioner's decision is that the request was vexatious and, therefore, the Council was entitled to rely upon section 14(1) of FOIA to refuse it.
3. The Commissioner does not require the Council to take any steps.

## Request and response

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4. On 6 September 2021, the complainant wrote to the Council and requested information in the following terms:

"Please supply the following information for the years 2020 and 2021 (so far):

- 1) The number of times and dates the Hampshire Police and Crime Panel has met in public.
- 2) The number of times and date the Panel has met in private – Public excluded.
- 3) The reasons for any Public exclusions.
- 4) The names of the Councillors who attended each Panel meeting.
- 5) The names of any third party attendees invited to form part of Panel for each meeting and the reason for their involvement.
- 6) The number of times and date of any Police and Crime Commissioner attendance.

You are required to acknowledge receipt of this letter, which has been sent to you by First Class mail. It is deemed to have been received by you on 7 September. You have 20 working days to respond – as per FOIA.

I do not provide you with online facilities, not I am legally obliged to do so. You will submit hard copies of the requested information."

5. The Council responded on 14 October 2021 and refused to provide the requested information citing section 14(1) (vexatious request) of the FOIA as its basis for doing so.
6. On 16 October 2021, the complainant requested an internal review.
7. Following an internal review the Council wrote to the complainant on 17 November 2021. It maintained its reliance on section 14(1) of the FOIA.

## Scope of the case

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8. The complainant contacted the Commissioner on 17 November 2021 to complain about the way his request for information had been handled.
9. The scope of this case and the following analysis is to determine if the Council has correctly applied section 14(1) of the FOIA to the request.

## Reasons for decision

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### Section 14(1) – vexatious requests

10. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
11. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s updated guidance on section 14(1)<sup>1</sup> states, it is established that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
12. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
13. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
14. The emphasis on protecting public authorities’ resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) (“Dransfield”)<sup>2</sup>. Although the case was subsequently appealed to the

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<sup>1</sup> <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

<sup>2</sup> <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.

15. Dransfield established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
16. The four broad themes considered by the Upper Tribunal in Dransfield were:
  - the burden (on the public authority and its staff);
  - the motive (of the requester);
  - the value or serious purpose (of the request); and
  - any harassment or distress (of and to staff).
17. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. They stated:

“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” (paragraph 82).

### **The complainant's position**

18. In their complaint to the Commissioner, the complainant stated that they do not consider their request to be vexatious. The complainant considers the Council's decision to deem their request as vexatious to be “spiteful” and “egregious” and believes that the Council has not offered a good or lawful explanation as to why their request has been refused.

### **The Council's position**

19. The Council considers the request to be vexatious. The Council stated that the complainant has made multiple requests for information to the Council relating to Hampshire Police and Crime Panel.
20. The Council considers that the aggregated burden of complying with these requests has placed a burden on the Council's resources and that complying with this request would also divert Council resources away from its core functions and place a burden on those resources.
21. The Council stated that a large amount of the information the complainant has requested is already publicly available and explained that it has previously provided the complainant with a link to where information on Hampshire Police and Crime Panel is published.

## **The Commissioner's position**

22. The Commissioner notes that similar circumstances apply in this case as in IC-106196-T5Q1<sup>3</sup> as in both cases the complainant requested information from the Council relating to Hampshire Police and Crime Panel. In IC-106196-T5Q1 the Commissioner determined that the Council was entitled to rely on section 14(1) of the FOIA to refuse to provide the requested information and set out his reasons for his decision.
23. In IC-106196-T5Q1 the Commissioner recognised that whilst the request may not have imposed a significant burden on the Council, the aggregated burden of dealing with the complainant's overall contact would have placed a burden on the Council's resources. This would have limited the time that staff were able to spend on responding to other information requests and performing other duties.
24. The Commissioner also considered that there was little value and purpose to the request given that the complainant's central concerns had already been considered by independent bodies on numerous occasions and the Council had clearly explained that it has no powers to oversee Hampshire Police and Crime Panel's decisions or actions. The Commissioner considered that it was unlikely that compliance with the request would satisfy the complainant or resolve the matter.
25. The Commissioner also saw little wider value and purpose in disclosure of the requested information given that the fact that the complainant had previously made the same request and received online links to that information.
26. In IC-106196-T5Q1 the Commissioner noted the derogatory nature of the complainant's correspondence in their dealings with Council officers. Whilst Council officers would be robust enough not to be overly disturbed by such correspondence, the Commissioner considered that the receipt of derogatory comments would irritate and annoy officers dealing with the requests. They would also be annoyed and irritated at the complainant's continued request for information which is already available online.
27. The Commissioner considers that the reasons given in IC-106196-T5Q1 for determining that the request in that case was vexatious similarly apply in this case. For example, in IC-106196-T5Q1, when

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<sup>3</sup> [IC-106196-T5Q1.pdf \(ico.org.uk\)](#)

corresponding with the Council the complainant used derogatory language towards staff members within the Council. The complainant has continued to use derogatory language towards staff members within the Council when corresponding with the Council in relation to the request in this case.

28. Therefore, the Commissioner's decision is that the request in this case is vexatious and thus, the Council is entitled to rely on section 14(1) of the FOIA to refuse to comply with the request.

## Right of appeal

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29. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

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

30. 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.
31. 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 .....**

**Ben Tomes**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**