

Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice

Date: 16 February 2023

Public Authority: Royal Borough of Greenwich
Address: 5th Floor, The Woolwich Centre
Woolwich
London
SE18 6HQ

Decision (including any steps ordered)

1. The complainant has requested information about the Royal Borough of Greenwich's ("the Council") Twitter account and the Leader of the Council's Twitter account. The complainant also requested telephone records between the Council and an Academy Trust, and made a meta-request for information held referring to the handling of an earlier request. The Council refused the requests under section 14(1) of FOIA.
2. The Commissioner's decision is that the Council is entitled to rely on section 14(1) to refuse the requests.
3. The Commissioner does not require any steps

Request and response

4. On 26 March 2021, the complainant, as part of an internal review request in relation to a previous request he had submitted, wrote to the Council and requested information in the following terms:

"Additionally, I request a response in relation to the following information:

[1] Have councillors or has the Leader of the Council either inquired and/or requested that certain content be posted on twitter, or has the Royal Borough of Greenwich received a direct message (DM) from the

Leader of the Council's private and personal twitter account containing a tweet posted by the Leader of the Council?

[2] Has the Royal Borough of Greenwich followed the Leader of the Council's private account or retweeted the Leader of the Council's personal tweets and how are these decisions made?

[3] Has the Leader of the Council made complaints to employers of residents of the Royal Borough of Greenwich, whilst attaching copies of their tweets referencing services provided by the Royal Borough of Greenwich?

[4] Has Legal Services been involved in any way with the processing of my request of 3rd January? Please provide all information in relation to the handling of this request and all associated email communication.

[5] Please can you provide all telephone records between the Royal Borough of Greenwich and the Inspire Partnership Academy Trust."

5. The Council acknowledged the further requests on 13 April 2021 and advised that they would be answered separately to the complainant's internal review.
6. On 14 April 2021 the Council contacted the complainant requesting clarification of part [5] of their request. The Council asked the complainant to specify over what time period they were seeking the telephone records from. In their request the Council addressed the complainant using an incorrect name and a different reference number.
7. On 26 April 2021 the complainant provided clarification of the time-frame in the following terms (part [1]) and made a further information request (parts [2]-[4]):

"[1] I require all telephone records and correspondence between the Inspire Partnership Academy Trust, including but not limited to the CEO [redacted], and the Royal Borough of Greenwich, including but not limited to Cllr [redacted].

I request all correspondence between 1st August 2019 and 1st April 2021.

Specifically, please conduct a search of Cllr [redacted]'s personal phone, which is not exempt from disclosure under the FOIA if, as it appears, it was used to conduct council business with Cllr [redacted] acting as Leader-designate.

[2] I also require all records relating to a Code of Conduct complaint against Cllr [redacted] made on 10th and 15th June 2020 and all

correspondence between and amongst councillors, senior and chief officers in relation to this matter. Please conduct a search of the personal email accounts and personal phones of Ms Debbie Warren, Chief Executive of the Royal Borough of Greenwich, [redacted], Director of Legal Services, [redacted], Director of Children's Services, [redacted], Deputy Chief Executive of the Royal Borough of Greenwich and Cllr [redacted], Leader-designate. You will be aware that data held within personal email accounts and on personal mobile phones is not exempt from disclosure under FOIA if, as I understand, it has been used to conduct council business.

[3] I also require the advice provided by the independent person in relation to a Code of Conduct complaint of 10th and 15th June 2020. Disclosure of this advice is in the public interest and is not exempt in accordance with FOIA.

[4] Please could you confirm if Cllr [redacted] made written representations in relation to the matter of 10th and 15th June 2020. If so, I request that this written representation is disclosed as it relates to Cllr [redacted] acting as Leader-designate and disclosure is in the public interest."

8. The Council responded to the complainant on 27 April 2021. It stated that it was handling the their correspondence outlined at paragraph 7 as a new request and provided a new reference number.
9. On 25 May 2021 the Council responded, it stated that it was refusing the entire request of 26 April 2021, including the clarifying statements at part [1], under section 14(1) of FOIA.
10. On 11 June 2021 the Council contacted the complainant to request clarification of part [5] of the request of 25 March 2021 for a second time. The complainant responded and informed the Council that they had responded to their request for clarification in their correspondence of 26 April 2021, and provided clarification again.
11. On 1 July 2021 the Council provided their response. It stated that it was refusing the entirety of parts [1] to [5] of the request of 25 March 2021, as outlined at paragraph 4 above, under section 14(1) of FOIA.
12. Following an internal review the Council wrote to the complainant on 23 September 2021. It stated that it was upholding its position.

Scope of the case

13. The complainant contacted the Commissioner on 9 December 2021 to complain about the way a number of his requests for information had been handled. The complainant stated that they believed the Council had incorrectly applied exemptions to avoid disclosing information that could cause the Council "political embarrassment".
14. The Commissioner contacted the complainant to narrow the scope of the investigation to the Council's handling of their request of 26 March 2021. The complainant confirmed that this request is the principal complaint however asked the Commissioner to consider the handling of their entire request of 26 April 2021 outlined at paragraph 7 also.
15. Parts [1], [2], and [3] of the request of 25 March 2021 are questions prompting a 'yes' or 'no' response or requesting an explanation, and are therefore not considered to be valid requests for recorded information held by the Council. The Commissioner will not be considering parts [1], [2] and [3] of the request of 25 March 2021 in this decision.
16. The Commissioner therefore considers the scope of the request to be whether the Council are entitled to rely on section 14(1) to refuse parts [4] and [5] the request of 25 March 2021, and the complainant's entire request of 26 April 2021.

Reasons for decision

17. 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.
18. The word "vexatious" is not defined in FOIA. However, as the Commissioner's updated guidance on section 14(1)¹ 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.
19. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is

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

an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.

20. 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.
21. 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")². Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.
22. 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.
23. 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).
24. 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 Council's position

25. In their response to the Commissioner the Council provided the background history and context to the complainant's extended series of

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

requests. The Council explained that the requests had been made following a number of formal complaints the complainant had raised against a local Councillor and members of Council staff. The contents of the complaints largely related to the Councillor's conduct in respect of social media posts they had made, among other issues personal to the complainant. After internal investigation, the Council decided not to uphold the complaints. The Council therefore stated that it believed the requests to be an attempt to reopen issues that have already been substantively addressed by the Council.

26. The Council further stated that complying with the requests would necessitate the involvement of four directorates within the Council, placing a significant burden on resources in order to respond to a matter that had already been investigated and concluded by Council officers.
27. The Council also stated that the complainant had raised a related complaint with the Commissioner regarding data protection matters which has been investigated and concluded.

The Commissioner's position

28. The Commissioner's position is that the Council is entitled to rely on section 14(1) to refuse parts [4] and [5] of the request of 26 March 2021 and the entire request of 26 April 2021.
29. Part [4] of the complainant's request is a meta-request seeking information about how a previous request had been handled. The Commissioner's guidance³ is clear that meta-requests are not inherently vexatious, however may be refused as such if a public authority can evidence that to comply with the request would pose a disproportionate level of disruption. As the Council has stated in its response to the Commissioner, complying with the request would require the involvement of four service areas and a diversion of officer resources away from core duties, placing a significant burden on the Council. The Commissioner is therefore satisfied that section 14(1) is engaged in respect of part [4] of the request.
30. Part [5] of the request of 26 March 2021, and the clarification provided at part [1] of the request of 26 April 2021, relate to personal matters that have been considered and concluded by the Council via its internal complaints route. If the complainant is dissatisfied with how the Council has handled these complaints the next appropriate step would be for the

³ [Requests about previous information requests \(meta requests\) | ICO](#)

complainant to raise their concerns with the Local Government Ombudsman. Making information requests in an attempt to settle a personal dispute is unreasonable and an improper use of FOIA, therefore the Commissioner is satisfied that section 14(1) is engaged in respect of part [5] of the request on the basis that the complainant's motive is to reopen matters that have been considered closed by the Council.

31. The Commissioner considers that parts [2], [3] and [4] of the request of 26 April 2021 amount to a meta-request about the handling of a prior complaint and therefore may be an attempt to obtain information with a view to reopen matters that have been considered closed by the Council. As explained at paragraph 30 above, the appropriate route forward at this juncture would be for the complainant to contact the Local Government Ombudsman.
32. The Commissioner also considers that, were the Council to comply with the complainant's requests in their entirety and disclose the information sought, it is likely that the complainant would submit further information requests to the Council. This would present an even further unreasonable burden on the Council's resources.
33. Finally, it is the Commissioner's position that there is limited public interest in the type of information the complainant is seeking, within the given context. It is fairly transparent that the information request has been made in relation to matters affecting the requester only.
34. The Commissioner does not require any steps.

Other matters

35. The complaint was accepted for investigation in December 2021, at which point the Council received notification from the Commissioner of this. Following the allocation of this case to one of the Commissioner's case officers, the Council was contacted on 26 October 2022 and asked it to provide its submissions to support the application of section 14(1). The Council's response to the Commissioner was not sent until 27 January 2023.
36. The Commissioner recognises the unique pressures facing public authorities in terms of resourcing, and understands that the Council was in the process of migrating IT systems throughout the latter part of his investigation, which prevented the Council from responding in a timely manner. However he considers that the Council had ample time to gather the necessary information to respond to his investigation since the complaint was first accepted for investigation in December 2021.

Right of appeal

37. 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

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

38. 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.
39. 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

Jonathan Slee
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