

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 March 2023

Public Authority: Blackpool Entertainment Company Limited

Address: Number one Bickerstaffe Square

Talbot Road

Blackpool

FY1 3AZ

Decision (including any steps ordered)

1. The complainant has requested information with regards to the Winter Gardens. Blackpool Entertainment Company Limited (BECL) refused the request as vexatious under section 14(1) of the FOIA.
2. The Commissioner's decision is section 14(1) of the FOIA is engaged.
3. The Commissioner does not require any steps.

Request and response

4. On 26 May 2022 the complainant made the following information request to the BECL:

“Winter Gardens Ballroom Booking/Reservation

A date for a competition anywhere between August 2021 and December 2021 was requested by Organisers linked to the World Dance Organisation. [Name redacted] stated there was not one day available in-between those dates, so the hire of the venue would not be available. Perhaps the Council would confirm that this was in fact the case.

How much has [name redacted] financially benefitted from WDC/AL, WDC, and DPA competitions, since he was given his role?”

5. The BECL responded on 1 August 2022 refusing the request under section 14(1) of the FOIA as it deemed it to be vexatious. It upheld its position in its internal review on 12 August 2022.

Scope of the case

6. The complainant contacted the Commissioner on 23 September 2022 to complain about their request being refused.
7. The scope of the case is for the Commissioner to determine whether BECL is able to rely on section 14(1) of the FOIA to refuse the request.

Reasons for decision

Section 6(1) – Publicly-owned company

8. Section 6(1) states that “A company is “publicly-owned company” for the purposes of section 3(1)(b) if-
 - (b) it is wholly owned by any public authority listed in Schedule 1...”
9. BECL has advised the Commissioner that it is a Limited Company that is wholly owned by Blackpool Council and therefore subject to the FOIA.
10. The Commissioner is satisfied that the BECL is subject to the FOIA as defined by regulation 6(1)(b) of the FOIA.

Section 14(1) of the FOIA – vexatious requests

11. Section 14(1) of the FOIA states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.
12. The term vexatious is not defined in the FOIA. The Upper Tribunal considered the issue of vexatious requests in the case of the Information Commissioner v Devon CC v Dransfield¹. The Tribunal commented that vexatious could be defined as the "manifestly unjustified, inappropriate or improper use of a formal procedure." The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.
13. In the Commissioner's view, the key question for public authorities to consider when determining if a request is vexatious is whether the value and purpose of the request justifies the distress, disruption or irritation that would be incurred by complying with it.
14. In this case the BECL has told the Commissioner that it has considered the Commissioner's guidance² on vexatious requests where it states:

"in some cases, you may believe that several different requesters are acting together as part of a campaign to disrupt your organisation by the sheer weight of FOIA requests they are submitting. Then, you can take this into account when determining whether any of those requests are vexatious."
15. It also quotes the Upper Tribunal in the Dransfield case, at paragraph 32:

"A requester who consistently submits multiple FOIA requests or associated correspondence within days of each other, or relentlessly bombards the public authority with e-mail traffic, is more likely to be found to have made a vexatious request"
16. BECL has told the Commissioner that it is the trading name for the Winter Gardens in Blackpool, a historic entertainment venue. It has

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

² <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/dealing-with-vexatious-requests-section-14/>

received no information requests from 2018 to 26 May 2022. In the following four days, it received 31 requests under the FOIA. BECL has provided the Commissioner with a copy of the requests, all from different requestors.

17. BECL has highlighted that every one of the requests is on a niche theme, a dance festival hosted by the Winter Gardens since 1920, all the requests use a common, often identical template and it has told the Commissioner that there has been a dispute with a competitor.
18. BECL considers this sufficient evidence to counter the complainant's position that the requests were coincidental and not part of a campaign.
19. BECL further quotes the Commissioner's guidance:

"Generally when handling requests under FOIA, the motive of the requester has no bearing on how you handle their request. However, it is relevant when you consider whether the request is vexatious under section 14(1)."

"The motive is to attack the public authority rather than being a genuine attempt to obtain information. There is a clear link here between motive and the harassment of staff."

"As well as unacceptable language, a request or series of requests, which make unsubstantiated allegations of criminal behaviour or wrong doing can be vexatious."

20. The BECL has stated to the Commissioner that the requests when you inspect them individually, a large proportion are not really intended to obtain recorded information and are simply abusing the legislation to attack the it due to a wider dispute. They are intended solely to cause distress, irritation and impact the BECL's resources by using the legislation to force it to process such a large volume of requests.
21. The BECL has also pointed out to the Commissioner that a large number of requests target a specific employee and it could be argued they insinuate financial misconduct which could constitute a criminal offence. This campaign of requests for information was also accompanied by a social media campaign containing slanderous comments regarding the same employee which has left them deeply distressed.
22. The Commissioner has considered the above and reviewed the other requests that were submitted to it within the four day period. He is satisfied that the format/ template of these requests are similar to the extent that he accepts the BECL's position that these were submitted as part of a campaign.

23. The Commissioner is also satisfied with the BECL's submissions that the volume of requests received in such a short period of time would have caused a disproportionate burden on its time and resources to respond to. He also accepts BECL's statement that these requests have placed unjustified distress on a specific employee.
24. On this basis, the Commissioner finds that the BECL was correct to refuse the request as vexatious and therefore section 14(1) of the FOIA is engaged.

Right of appeal

25. 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@justice.gov.uk

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

26. 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.
27. 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

Victoria James
Senior Case Officer
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Water Lane
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