

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

### **Decision notice**

**Date:** 2 March 2023

**Public Authority:** Barwick in Elmet & Scholes Parish Council

**Address:** 33 Flats Lane  
Barwick in Elmet  
Leeds  
LS15 4LJ

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

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1. The complainant requested information from Barwick in Elmet & Scholes Parish Council ("the Council") relating to members receiving water bottles. The Council refused the request under section 14(1) of FOIA (vexatious requests).
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 any steps.

#### **Request and response**

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4. On 18 October 2022, the complainant made the following request for information to the Council:

"Please supply me under FOI with copies of all internal correspondence in relation to this matter (theft of water bottles) and all correspondence between the council and police.

I would like a detailed answer as to why you deem it not appropriate to report this criminal behaviour to the monitoring officer. I am appalled you yet again wish to disregard such criminal acts.

You have a duty to do something about this and I trust you will be taking this up with the supervisor of the community constable. Please

report the matter as a crime and have it duly recorded as you should have done months ago. Your actions are a dereliction of your position.”

5. On 15 November 2022, the Council responded and said the request was being refused because it was vexatious under section 14(1) of FOIA.
6. Following an internal review, the Council wrote to the complainant on 13 December 2022, upholding its position.

## **Reasons for decision**

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### **Section 14(1) – vexatious requests**

7. 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.
8. 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.
9. 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.
10. 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.
11. 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.

12. 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.
13. 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).
14. 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 view**

15. The Council stated that the request was received by email with the use of subject title “Theft of water bottles” and this demonstrated accusatory nature of the complainant. The Council argued that it is a continuation of emails received from the complainant about the same issue following attendance at a Council meeting in July 2022 by the complainant.
16. The Council stated the water bottles had been returned by councillors who received them after the complainant accused an individual councillor of theft. The Council believes the complainant is “phishing for information” in order to question the integrity of Council members.
17. The Council also argued that, given the complainant's previous history of requests and correspondence on this subject matter, it is in no doubt that responding to these requests would likely result in the complainant submitting further requests. Further, it stated that there is a little value to the request as the matter had been referred to the Police who did not respond, and the Principal Authority (Leeds City Council) who stated it is a matter for the Parish Council.

### **The complainant's view**

18. The complainant believes the Council covering up unaccounted water bottles which were bought for schoolchildren for the jubilee celebrations and surplus distributed to councillors.
19. The complainant believes the refusal to release the information requested is due to an allegation of theft to the councillors.

### **The Commissioner's decision**

20. In cases where a public authority is relying on section 14(1), it is for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.
21. The Commissioner accepts the complainant has made a number of requests relating to surplus bottle distribution and has made accusations of theft.
22. The Commissioner acknowledges that the subject matter may be of public interest. He accepts that, by seeking transparency and accountability, a request can have value or serious purpose.
23. In reaching a decision in this case however, the Commissioner has balanced the purpose and value of the request against the detrimental effect on the public authority.
24. He has also considered, in light of the nature, and degree, of the dealings between the complainant and the Council, whether, at the time, the request crossed the threshold of what was reasonable.
25. The Commissioner has also considered the burden that dealing with these requests and the manner in which the complainant has pursued them, has had on the public authority.
26. Whilst the Commissioner does not necessarily consider that complying with the request itself would place a significant burden on the Council, he recognises that the aggregated burden of dealing with the complainant's overall correspondence has placed a burden on the Council and its resources.
27. The Commissioner is of the view that at least part of the complainant's motive has been to discredit an individual councillor. The use of abusive language, indicates that the motive is to attack the public authority, rather than present a genuine attempt to obtain information.

28. Having balanced the purpose and value of the request against the detrimental effect on the Council, the Commissioner is satisfied that the request was a trivial way to prolong a complaint, and not an appropriate use of FOIA procedure.
29. The Commissioner believes that the request was vexatious and therefore the Council was entitled to rely on section 14(1) of FOIA to refuse the request.

## Right of appeal

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30. 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)

31. 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.
32. 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** .....

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