

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

### **Decision notice**

**Date:** 31 January 2024

**Public Authority:** Central Bedfordshire Council  
**Address:** Priory House  
Monks Walk  
Chicksands  
Shefford, Bedfordshire  
SG17 5TQ

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

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1. The complainant has requested complaint information with regards to a named Councillor. Central Bedfordshire Council (the council) refused the request as vexatious, relying on section 14(1) of FOIA.
2. The Commissioner's decision is that the request is not vexatious and therefore section 14(1) of FOIA is not engaged in this case.
3. The Commissioner requires the council to take the following steps to ensure compliance with the legislation.
  - Issue a fresh response to the complaint's request without relying on section 14(1) of FOIA.
4. The council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

## **Request and response**

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5. On 30 May 2023 the complainant made the following information request to the council:  
  
"Please provide details including number of, and copies of the following by way of email:  
  
Q1. Any formal and/or informal complaints made to the monitoring officer or any relevant colleague in respect of Councillor [name redacted].  
  
Q2. Any complaint informal or otherwise made by another councillor or member of staff of central Bedfordshire against Councillor [name redacted]."
6. The council responded on 12 May 2023 refusing the request under section 14(1) of FOIA as it determined it to be a vexatious request.
7. The complainant requested an internal review on the 12 July 2023 and the council carried this out on 18 July 2023 upholding its original response.

## **Scope of the case**

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8. The complainant contacted the Commissioner on 7 August 2023 to complain about his request being refused.
9. The scope of the case is for the Commissioner to determine whether the council is able to rely on section 14(1) of FOIA to refuse the request as vexatious.

## **Reasons for decision**

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### **Section 14(1) of the FOIA – vexatious requests**

10. Section 1(1) of FOIA requires a public authority to confirm whether or not requested information is held, and to provide a copy of that information to the requestor where no exemptions are applicable.
11. Section 14(1) of the FOIA states that a public authority does not have to comply with the requirements of section 1(1) where a request for information 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 vs Devon County Council & Dransfield [2012] UKUT 440 (AAC), (28 January 2013) ("Dransfield")<sup>1</sup>. 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 council has told the Commissioner that the publication of complaints against a named councillor would run contrary to the council's complaints process set out in section 5b of the council constitution<sup>2</sup>.
15. The council states that its constitution is clear that the complaints process is confidential unless the Standards Sub-Committee make the decision to publish their findings in respect of a specific complaint against a councillor.
16. The council has told the Commissioner, after considering his guidance<sup>3</sup>, that section 14 of the FOIA is applicable in this case because it is of the view that the request lacks serious purpose or value for the reasons set out below.
17. The complaints process itself is subject to democratic oversight and scrutiny by its Standards Committee and as it has told the requestor in

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

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[https://www.centralbedfordshire.gov.uk/info/27/about\\_your\\_council/208/councillors\\_political\\_control\\_constitution\\_and\\_webcasting/3](https://www.centralbedfordshire.gov.uk/info/27/about_your_council/208/councillors_political_control_constitution_and_webcasting/3)

<sup>3</sup> <https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/section-14-dealing-with-vexatious-requests/>

its response to his request, anonymous details of complaints are published on the council's website<sup>4</sup>.

18. The council therefore takes the view that there is sufficient accountability and transparency in the complaints process and that any additional benefit from the publication against a particular Councillor would not outweigh the potential detrimental impact to the Councillor and to the council.
19. The council reasons that publishing complaints of a specific Councillor, which may be unfounded or vexatious, risks damaging their reputation and may encourage the submission of vexatious requests. This would not only place unnecessary burden on the council, but would also not be in the interests of fairness and justice.
20. The council has also stated to the Commissioner that the request relates to a particular council member rather than the actions of the council as a public authority and whilst mindful that there is a general public interest in the accountability of elected officials, the FOIA applies to public authorities, rather than individuals and disclosure of the requested information will not serve to make the council as a body more accountable or transparent nor clarify its decision making process.
21. The Commissioner is not convinced of this rationale by the council. The Commissioner is of the view that information on how a public authority handles/ has handled complaints about elected officials would show accountability, transparency and give clarification on its decision making process about the complaint. It would also allow the public to better understand any reasoning for the decisions made in relation to a complaint.
22. However, whether any or all of that information should be released into the public domain is a different consideration and there are other exemptions within the FOIA that may exempt disclosure of that type of information.
23. The Commissioner considers it necessary to make it clear that FOIA allows requestors to request any information held by a public authority, not just information held that relates directly to the actions of a public authority.

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[https://www.centralbedfordshire.gov.uk/info/27/about\\_your\\_council/237/cus-tomer\\_feedback/5#councillors](https://www.centralbedfordshire.gov.uk/info/27/about_your_council/237/cus-tomer_feedback/5#councillors)

24. The council has formed the view that the request appears to be made towards the named Councillor for personal/ political reasons, rather than a genuine desire to hold the authority to account, to scrutinise decision making or otherwise act in the public interest.
25. The council has expanded on this to the Commissioner, explaining that the complainant has a number of outstanding complaints against the Councillor and it is clear to it that this request is made in connection with those complaints.
26. The council has not provided the Commissioner with any more details on these outstanding complaints, or stated how many there have been. The Commissioner notes in the initial response to the request, the council references that there were two outstanding complaints about the Councillor.
27. The Commissioner is also aware that there are many instances where requests are made for personal and political reasons. This does not in turn lessen the value or purpose of a request. Many people use FOIA to seek answers around personal and political issues.
28. On review of the above, the Commissioner has not been convinced in this case that requesting information about a particular person within or related to a public authority lessens the purpose or value of the request. Public officials should in fact expect some level or scrutiny within their roles, as their actions and decisions can directly impact on the public to which they serve.
29. The Commissioner appreciates that the request is for complaint information about a specific councillor. As mentioned previously, there are other exemptions within the FOIA that may be relevant as to why certain information of this nature should not be released, but the council has not sufficiently shown this request to have been a disproportionate or unjustified use of the FOIA or that there would be significant distress, disruption or irritation placed upon it in responding to it.
30. The Commissioner therefore finds that the request is not vexatious and section 14(1) of FOIA is not engaged in this case.
31. The Commissioner requires the council to issue a fresh response to the complainant's request, without relying on section 14(1) of FOIA to refuse to respond.

## **Right of appeal**

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32. 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](mailto:grc@justice.gov.uk)

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

33. 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.
34. 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**

**Daniel Perry**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**