

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 April 2024

Public Authority: Puxton Parish Council
Address: clerk@puxtonparishcouncil.org.uk

Decision (including any steps ordered)

1. The complainant requested information from Puxton Parish Council (“the Council”) relating to its accounts for the financial year 2022-23.
2. The Commissioner’s decision is that the Council is not entitled to rely on section 14(1) (vexatious request) to refuse to comply with the request.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - The Council must issue a fresh response to the request which does not rely on section 14(1) of the FOIA.
4. The Council must take these steps within 30 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 the Act and may be dealt with as a contempt of court.

Request and response

5. On 30 May 2023, the complainant wrote to the Council and requested information in the following terms:

“I wish to give notice that I would like to inspect the accounts for Puxton Parish Council for the financial year 2022-23.”
6. The Council provided the complainant with a response to the request on 6 September 2023 in which it stated that it is relying on section 14(1) (vexatious request) of FOIA to refuse to comply with the request.

7. On 29 September 2023 the complainant wrote to the Council and requested an internal review. The Council provided the complainant with the outcome of its internal review on 6 November 2023 in which it maintained its application of section 14(1) to the request.

Reasons for decision

8. This reasoning covers whether the Council is entitled to rely on section 14(1) of FOIA to refuse to comply with the request.
9. The complainant does not consider their request to be vexatious. In their initial complaint to the Commissioner, the complainant stated that they believe that the Council has refused to comply with their request in order to hide information.

The Council's position

10. The Council considers the complainant's request to be vexatious. In its submissions to the Commissioner, the Council stated that since the complainant resigned as Chairman of the village hall in 2016, the complainant has sent a continuous stream of emails to the Parish Clerk and the Council. The Council stated that the Parish Clerk responded to every email sent by the complainant until October 2020. However, it explained that the complainant's emails were blocked between May 2021 and February 2023 in line with police advice. The Council stated that between 28 October 2020 and 26 May 2021, the complainant sent 76 emails to the Council which were not answered.
11. The Council explained that on 9 February 2022 it wrote to the complainant to inform them that their contact was being restricted due to unreasonable and unacceptable behaviour. The complainant was asked to post correspondence to the Council's Chairman at a specific address and to not contact the Parish Clerk or Parish Councillors by email. The Council explained since the 9 February 2022, it has asked the complainant multiple times to only contact the Council by post. However, despite this, the complainant continues to send correspondence to the Council by email. The Council also believes the complainant to be running a social media account which makes "slanderous", "insulting" and "upsetting" accusations about members of the Council and the Parish Clerk.
12. The Council explained that at the beginning of 2022, the complainant put up a number of public notices which accused the Council of misconduct and demanded a public meeting. The Council believes that it addressed the complainant's concerns at a Parish Council meeting and

stated that the complainant's concerns were also investigated by independent bodies at the request of the complainant.

13. The Council explained that in July 2022 the complainant objected to the Council's accounts for 2021-22 which resulted in an external audit being conducted. It stated that in total the objection cost the Council around £3000 due to the cost of the audit and the cost of paying the Parish Clerk for 75 hours of overtime that was required to deal with the audit. The Council explained that as it only has annual precept of £10,000, this was a significant amount of money. It stated that the complainant has claimed on social media that they intend to incur the Council costs of £5000 next year.
14. The Council believes the complainant to have a vendetta against the Council and it considers the fact that the complainant was able to pursue a complaint to the ICO to be evidence of their vexatious harassment. The Council stated that the complainant's correspondence and harassment is distressing for Council members and the Parish Clerk and it considers that if it were to comply with the request, the complainant would send further complaints, requests for information and correspondence to the Council.
15. When determining whether section 14(1) applies to the request the Commissioner must consider the circumstances at the time of the request. He cannot take into consideration events or correspondence that occur after the request was made. Therefore, whilst the Council provided the Commissioner with further arguments to support its position, the Commissioner has not taken them into account when making his decision and they are not included in this notice as they relate to events and correspondence that postdate the request.
16. Furthermore, the Council has provided the Commissioner with arguments to support its position which relate to the village hall. This includes information relating to correspondence received by the village hall and events that took place at the village hall when it was not being used by the Council. The Commissioner notes that the Chairman of the Council is also the Chairman of the village hall and that the Council uses the village hall to conduct its Parish Council meetings. However, as the Commissioner understands it the village hall is owned by a limited company rather than the Council. Therefore, he does not consider the Council's arguments relating to the village hall to be relevant in this case and so they have not been taken into account by the Commissioner or included in this notice.

The Commissioner's position

17. The Commissioner notes that the Council has stated that between 28 October 2020 and 26 May 2021 the complainant sent 76 emails to the Council. The Commissioner recognises that this is a large number of emails and he considers that if the Council had responded to these emails, it would have placed a significant burden on the Council given that it is a small public authority with limited resources. However, the Commissioner considers that the Council has failed to demonstrate that since May 2021, the complainant has continued to send a large volume of correspondence which would place a burden on the Council and its limited resources.
18. Furthermore, the Commissioner notes that the Council believes the complainant to be running a social media account which makes accusations about members of the Council. However, the Council has not provided the Commissioner with evidence to support this position such as examples of social media posts made by the account which make allegations about Council members or use derogatory and offensive language.
19. The Commissioner notes that the Council has restricted the complainant's contact by asking the complainant to only contact the Council by post. However, other than stating that the complainant's contact has been restricted due to "unreasonable and unacceptable behaviour", the Council has not explained why the complainant's contact has been restricted. Furthermore, whilst the Commissioner recognises that the complainant has continued to send correspondence to the Council by email despite being asked to only contact the Council by post, he considers that this alone is not sufficient evidence that the request is vexatious.
20. Whilst the Commissioner recognises that the Council spent a significant amount of time and money dealing with the complainant's objection to its 2021-22 accounts and the subsequent external audit, as he understands it under the Local Audit and Accountability Act 2014 an elector, in this case the complainant, has the right to object to a Council's accounts. The Commissioner is also aware that following the external audit, the Council was advised to amend its method of accounting. Furthermore, whilst the Council has stated that the complainant has claimed on social media that they intend to incur the Council costs of £5000 next year, the Council has not provided evidence to support this.
21. The Commissioner notes that the Council has stated that the complainant has put up multiple notices which accuse the Council of misconduct and ask for a public meeting. However, the Council has not

explained what allegations were made or how it has addressed the complainant's concerns. Furthermore, the Commissioner acknowledges that the Council considers that if it were to comply with the request, the complainant would send further complaints, request for information and correspondence. However, this in itself is not enough to persuade the Commissioner that the request is vexatious.

22. Therefore, the Commissioner considers that the Council has failed to demonstrate that the request is vexatious. His decision is that the Council is not entitled to rely on section 14(1) to refuse to comply with the request.
23. The Commissioner requires the Council to provide the complainant with a fresh response to the request which does not rely on section 14(1) of FOIA. He notes that the Council may have already provided the complainant with information within the scope of the request. If it is the case that the Council has already disclosed all the information it holds within the scope of the request then the Council should confirm that in its response.

Other matters

24. Whilst the Commissioner has concluded in this case that the Council is not entitled to rely on section 14(1) of FOIA to refuse to comply with the request, if the complainant were to make further requests which are similar in nature and frequency in the future, the Council could consider applying section 14(1) to those requests. However, it would need to demonstrate that any such request was vexatious.
25. The Commissioner is also of the view that the complainant should be mindful in their dealings with the Council of its very limited resources.

Right of appeal

26. 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

27. 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.
28. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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