

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 August 2024

Public Authority: Information Commissioner
Address: Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Decision (including any steps ordered)

1. The complainant has requested information relating to the data protection registration of a Parish Council. The ICO refused the request as vexatious under section 14(1) FOIA.
2. The Commissioner's decision is that the request was vexatious and therefore the ICO was entitled to rely upon section 14(1) FOIA to refuse it. The Commissioner does not require any steps.
3. This decision notice concerns a complaint made against the Information Commissioner ('the Commissioner'). The Commissioner is both the regulator of FOIA and a public authority subject to FOIA. He is therefore under a duty as regulator to make a formal determination of a complaint made against him as a public authority. It should be noted, however, that the complainant has a right of appeal against the Commissioner's decision, details of which are given at the end of this notice. In this notice the term 'ICO' is used to denote the ICO dealing with the request, and the term 'Commissioner' denotes the ICO dealing with the complaint.

Request and response

4. On 10 February 2024 the complainant wrote to the ICO and requested information in the following terms:

“Under the Freedom of Information Act 2000, I am writing to request information regarding the data protection registration of Irby upon Humber Parish Council with the Information Commissioner’s Office (ICO) for the past five years.

Specifically, I would like to request the following information:

- 1) Confirmation of each Irby upon Humber Parish Council data protection registration or renewal with the ICO for the past five years.
 - 2) The dates on which Irby upon Humber Parish Council completed their data protection registration or renewal with the ICO for each of these years.
 - 3) The sum paid by Irby upon Humber Parish Council to the ICO in respect of their data protection registration fee for each year.
 - 4) The data protection registration number for Irby upon Humber Parish Council.”
5. The ICO responded on 7 March 2024 and refused the request under section 14(1) FOIA. A position it upheld following an internal review on 13 March 2024.

Scope of the case

6. The complainant contacted the Commissioner on 13 March 2024 to complain about the way their request for information had been handled.
7. The Commissioner considers that the scope of his investigation is to be to determine if the ICO has correctly relied on section 14 to refuse to respond to the request.

Reasons for decision

Section 14(1) – vexatious requests

8. 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.
9. The word "vexatious" is not defined in FOIA. However, as the Commissioner's updated guidance on section 14(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.
10. 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.
11. However, the Commissioner 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.
12. 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"). Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.
13. 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.
14. 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).

The ICO's view

15. The ICO considered that complying with the request could have a detrimental impact on the organisation named in the request and their staff, as well as on the ICO.

16. The ICO states that the complainant has made a significant number of requests and complaints related to Irby upon Humber Parish Council ("the Parish Council") and it's reasonable to make the link that there is a longstanding dispute between these parties. As well as approaching the Parish Council, the complainant has also made numerous complaints and information requests to the ICO between 2019 and 2022, with 15 information requests (under both FOIA and the Data Protection Act 2018) identified on the ICO's casework system as relevant to this matter in this period.
17. The ICO considers that the complainant is pursuing their own personal issue with the organisation by repeatedly escalating requests, complaints and correspondence to the ICO. The ICO states the resources needed to deal with the ongoing correspondence, complaints and requests are disproportionate and, when considered in the context of the engagement to date, constitute an unjustified level of disruption. This is to the detriment of other matters that require attention.
18. The ICO recognises there has been a gap in requests and complaints about the Parish Council but explains the Parish Council was dissolved in 2022, putting a halt to the requests. However, the Parish Council has been reconstituted and once this happened the requests and complaints resumed. Given the similarities between this request and previous requests, and the timing of the request, the ICO's view is that this present request is intended to resume a longstanding campaign to cause disruption to the organisation and its staff.
19. As a result, the ICO believes the complainant's pattern of contact shows that whatever response they receive to information requests will not put an end to matters and will simply be used to continue their grievances, leading to further requests and complaints.
20. The ICO also considers there is no serious purpose or wider public interest in the information being requested. The requests are intended to pursue personal issues and attempt to re-open matters. Responding to further requests on this issue will simply cause disruption and a diversion of limited resources from other functions to perpetuate ongoing personal grievances.
21. The ICO's view is that the request serves to express the complainant's dissatisfaction with, and distrust of, the Parish Council and provides further means by which they can cause the Parish Council disruption. The ICO is unclear as to how the requested information would help the complainant resolve their dispute with the Parish Council and any public interest is arguably served by the information being published on the ICO's data protection register. The ICO maintains that any wider public

interest in the registration history of a small parish council is not substantial enough to justify the possible detriment it has argued.

22. In terms of the volume and pattern of request, the ICO explained the complainant makes multiple requests to the Parish Council then submits complaints to the ICO and makes complaints about the ICO.
23. Whilst the ICO does not retain complete records of cases over two years old, and a lot of the complaints were made between 2019 and 2022 for reasons already explained, it has established there were 15 cases registered about information requests made to the Parish Council.
24. In responding to these requests, the complainant was warned about their behaviour and refusals were issued in response to their subject access requests and FOI requests which set out the ICO's reasons for refusing the requests and referenced the obsessive nature and volume of complaints and requests regarding a small parish council. The complainant was informed that further requests relating to the Parish Council would most likely be refused under section 14(1) FOIA.
25. The ICO recognises some time has passed since these requests in 2022 and that there may be some genuine interest in the status of the reinstated organisation but the request is asking for information over the last five years. The ICO is also concerned the requester may be using different names and email addresses to refute the suggestion they are making requests that might be vexatious.
26. The ICO holds several difference contact records under the complainant's name and the ICO considers three of these to be the same person (the complainant) as, despite using different email addresses, they are associated with the same postal address. The ICO states there are also notable similarities in the email format, style and contents of the correspondence sent from these addresses.
27. There are also multiple What Do They Know accounts associated with the name of the complainant which the ICO has shown to the Commissioner have been used to make FOI requests relating to public authorities in the same geographical area as the Parish Council, and to the ICO. One such request made to the ICO via What Do They Know related to the Parish Council and was refused by the ICO under section 14(1) FOIA.
28. The ICO considers it highly unlikely that that there are multiple people with the same name submitting similar requests and complaints within a limited geographical area, about the same organisations, during the same timeframes. It is the ICO's view that the recent resurgence in the

complainant's activity constitutes them attempting to resume their harassment of the Parish Council following its recent reconstitution.

29. All of this, the ICO believes, strengthens its position that the requests serve no serious purpose in terms of the wider public interest and are unlikely to resolve the complainant's dispute with the Parish Council but will continue to cause distress to the Parish Council and divert the ICO's time and resources away from other activities with no real wider benefit.

The complainant's position

30. The complainant states they have never submitted any FOI requests to the Parish Council and the pattern of requests the ICO considers vexatious is nothing to do with them. They argue the request in this case was made as the Parish Council had been without quorum for several years and was reconstituted in July 2023 but despite the lack of quorum the complainant's personal data (held by the Parish Council) was shared several times in 2021 and 2022.
31. The complainant understands the Parish Council's inability to achieve a quorum impaired its ability for personal data processing and financial authorisations during meetings, including paying its annual data protection registration fee. The complainant argues there is wider public interest in the information they have requested to show if the Parish Council paid its registration fee and if it was complying with its legal obligations in managing personal data.

The Commissioner's view

32. 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.
33. The Commissioner has considered both the complainant's position and the ICO's arguments and from the evidence, he is satisfied that the ICO was entitled to refuse the request under section 14(1).
34. The complainant's arguments are that they have not made multiple requests and there is serious wider value to their request. The ICO has provided clear evidence that the complainant has been using multiple email addresses to bring complaints to the ICO about the Parish Council and to make requests to the ICO about the Parish Council. The same postal address linked to all of these email accounts is compelling evidence of this.
35. In accepting this, the Commissioner also acknowledges that the ICO had previously warned the complainant that continued requests may attract

section 14 due to the obsessive and ongoing nature of the requests. The Commissioner agrees with the ICO that there is more than a suggestion that multiple email accounts are being used to avoid a pattern being detected and future requests being deemed vexatious.

36. In terms of whether the serious purpose or value of the request would outweigh any potential unjustified or disproportionate disruption or any distress to the Parish Council; the Commissioner recognises that on face value the request seems fairly basic. However it is clear that requests about the Parish Council or to the Parish Council have had an impact on the ICO's resources over the last several years. There is very little wider interest in the subject matter of this request given that the ICO has a public register that can be accessed by anyone who is interested in knowing who is registered, what payment tier they are in and when their registration expires.
37. On the issue of volume of requests and the ongoing nature of these, the Commissioner normally would consider requests from 2019 – 2022 may not be a particularly relevant factor. However, in this case the ICO has demonstrated that the requests and complaints only tapered off as the Parish Council was dissolved but there is evidence that now it has been reconstituted requests have resumed. For this reason the Commissioner considers the pattern and volume of requests from 2019 -2022 is a relevant consideration here and it is highly likely had the Parish Council not been dissolved the requests would have continued without pause.
38. The Commissioner therefore considers that responding to further requests on this subject matter is not going to put an end to the issue, nor is there any compelling wider interest in the subject matter. It is clear the ICO has invested considerable time into responding to requests from the complainant but has now reached a point where it considers that responding to further requests would not be an appropriate use of its time and resources and would be a diversion from its core functions and activities.
39. For all of these reasons, the Commissioner concludes the ICO was correct in its application of section 14(1) FOIA to refuse to respond to the request.

Right of appeal

40. 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

41. 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.
42. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Jill Hulley
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF