

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 February 2016

Public Authority: Salford City Council
Address: Salford Civic Centre
Chorley Road
Swinton
M27 5DA

Decision (including any steps ordered)

1. The complainant has requested information relating to the cost of fostering children outside the borough between 2011 and 2015.
2. The council refused to respond to the complainant's request citing section 14(1) of the FOIA.
3. The Commissioner's decision is that the council acted appropriately by refusing to respond to the request under section 14(1) of the FOIA. He therefore does not require any further action to be taken.

Request and response

4. On 16 June 2015, the complainant wrote to the council and requested information in the following terms:

"Please provide details for the cost of fostering outside of Salford borough for the following years

- 2014-2015
- 2013-2014
- 2011-2012

Details of percentage increase or decrease of cost would be appreciated in addition to

- Number of children in care outside of the Salford borough
 - Cost per placement for children outside the Salford borough
 - Length of time outside the Salford borough
 - Private or public placement details outside the borough by number and cost"
5. The council responded on 14 July 2015. It informed the complainant that it considered his request for information was vexatious and therefore it was refusing to comply under section 14(1) of the FOIA.
 6. The complainant requested an internal review on 15 July 2015.
 7. As the complainant received no response, he referred the matter to the Commissioner on 24 August 2015.
 8. The Council carried out an internal review and notified the complainant of its findings on 25 September 2015. It stated that it remained of the opinion that section 14(1) of the FOIA applied to the complainant's request.

Scope of the case

9. As stated above, the complainant contacted the Commissioner on 24 August 2015 to complain about the way his request for information had been handled. At this time the complaint was that the council had not completed an internal review. Once the council completed the internal review process, the complainant raised a further complaint regarding the council's application of section 14(1) of the FOIA.
10. This notice will decide whether the complainant's request of 16 June 2015 is vexatious or not. Prior to this complaint the Commissioner considered the application of section 14(1) of the FOIA to an earlier request the complainant had made to the council on 22 November 2013 under case reference FS50525137. The case was resolved informally in December 2014 with the complainant accepting the Commissioner's preliminary findings that section 14(1) of the FOIA applied at this time. As the case was resolved informally no decision notice was issued.
11. However, the council has argued that the complainant's vexatious behaviour continued resulting in this further complaint to the Commissioner. During the Commissioner's earlier investigation under case reference FS50525137, the council submitted detailed arguments to support the application of section 14(1) of the FOIA. The

Commissioner has used this evidence and further submissions from the council highlighting events since to determine this case.

Reasons for decision

12. Section 14(1) of the FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious. There is no public interest test.
13. The term "vexatious" is not defined in the FOIA. The Upper Tribunal (information Rights) considered in some detail the issue of vexatious requests in the case of the *Information Commissioner v Devon CC & Dransfield* (GIA/3037/2011). 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.
14. In the Dransfield case, the Upper Tribunal also found it instructive to assess the question of whether a request is truly vexatious by considering four broad issues: (1) the burden imposed by the request (on the public authority and its staff); (2) the motive of the requester; (3) the value or serious purpose of the request and (4) harassment or distress of and to staff.
15. The Upper Tribunal did however also caution that these considerations were not meant to be exhaustive. Rather, it stressed the:

"importance of adopting a holistic and broad approach to the determination of whether a request is vexatious or not, emphasising the attributes of manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious requests" (paragraph 45).
16. In the Commissioner's view the key question for public authorities to consider when determining if a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
17. The Commissioner has identified a number of "indicators" which may be useful in identifying vexatious requests. These are set out in his published guidance on vexatious requests, which can be accessed via the following link:

<https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of a case will need to be considered in reaching a judgement as to whether a request is vexatious.

The council's arguments

18. The council confirmed that the complainant has been in contact with and making complaints to Children Services since 2008. All relate to the foster care of his two children and him not having access to them. The council has provided pages and pages of events in chronological order detailing the FOIA requests and Subject Access Requests (SAR's) under the Data Protection Act (DPA) he has made since 2011 and the various complaints he has made against Children Services since 2008. Up to May 2014 (the date of the council's submissions under case reference FS50525137) the complainant had submitted a total of 36 FOIA requests and SAR's all relating to the same topic or theme, 12 of which were made after the council's first notification that it was invoking section 14(1) of the FOIA. The complainant had also made numerous complaints to Children Services and bombarded it with correspondence after correspondence all relating to the same topic or issue. Up to the date of these submissions, there had also been five complaints to the Commissioner.
19. From May 2014 to the date of the request being considered in this notice a further five FOIA/SAR requests were made and the complainant had been in contact with Children Services making more complaints and comments at least 28 times.
20. In addition to this there has been various contact, applications and correspondence relating to ongoing court proceedings.
21. The council stated that the volume, frequency and pattern of continual requests, complaints and correspondence have placed a significant burden upon the council in terms of time and resources over a prolonged period of time. It argued that the complainant often copies in numerous members of staff and different organisations creating a scatter gun approach, which has had the effect of delaying responses and harassing staff. He has made repeated serious and unsubstantiated accusations against staff and has often adopted an accusatory tone in many of his requests. The council confirmed that the complainant has made allegations of incompetence, ineptitude, criminality, racism and terrorism to name but a few and has received three warning letters relating to his aggressive and abusive behaviour and his overall unreasonable conduct in January and May 2012 and November 2013. Despite these warnings the complainant has continued to make

complaints and bombard the council with correspondence and requests for information.

22. Throughout this time the complainant has also involved the Local Government Ombudsman and the City Mayor and regardless of the responses he receives from the council or other individuals/organisations he continues with this pattern of unreasonable behaviour.
23. The council stated that the complainant's obsessive and unreasonable pursuit of complaints and information requests, and unwillingness to accept decisions has created a disproportionate and unjust burden on the workload of the council for many years. There is a clear and undisputed pattern of behaviour which demonstrates that complying with the complainant's requests will only result in further detailed and repetitive correspondence, further requests and complaints seeking to reopen issues already addressed and closed. It stated that in view of the excessive resources already used to address the multiple issues raised by the complainant, both in the past and presently, it cannot countenance further disproportionate burden in the future. It considers the complainant's behaviour is a clear misuse of the FOIA and the Data Protection Act and there is a need to bring this to an end to ensure that no further valuable public resource is directed to this campaign.

The Commissioner's decision

24. It is clear that the complainant has been in correspondence with the council since 2008 in connection with the foster care of his children. The complainant has made a total of 36 FOIA/SAR requests since 2011 and bombarded Children Services with numerous complaints, comments and correspondence. Of note is that despite three warning letters from the council in relation to his conduct, the application of section 14(1) of the FOIA in November 2013 and the Commissioner agreeing informally in December 2014 that section 14(1) of the FOIA applies, the complainant's behaviour and misuse of the information access regimes has continued.
25. In addition to the above, is the time and resources devoted to ongoing court proceedings relating to the care of the complainant's children.
26. The Commissioner accepts that the numerous complaints and information requests since 2011 has placed an overwhelming burden on the council in terms of time and resources and there is a need now to bring the clear misuse of the FOIA to an end. The Commissioner agrees with the council that, regardless of the response the complainant receives, whether in connection with a complaint or request he has made or third party involvement, the complainant continues to make request after request and complaint after complaint. The Commissioner

informed the complainant in December 2014 at the time he closed case reference FS50525137 that he should more appropriately pursue his ongoing concerns via other means. It is noted on this case file that the complainant agreed. Yet the complainant has continued to submit further FOIA/SAR requests and raised a further complaint with the Commissioner. He has also continued to bombard Children Services with more complaints and comments.

27. The Commissioner also notes that the complaint tends to copy different members of staff and various third party organisations into his correspondence. He considers this form of behaviour has the effect of harassing staff in the council and possibly third party organisations which have already ended their involvement. This behaviour causes disruption, delays responses and adds to the burden already placed on public time and resources.
28. In terms of serious purpose and value, the Commissioner considers that it cannot be disputed that the requested information does not have serious purpose or value to the complainant personally. The information requested obviously relates to the foster care of his children and his ongoing concerns with that. However, in terms of the wider public there is significantly less purpose or value in this information.
29. For the reasons detailed above, the Commissioner has concluded that the council has correctly applied section 14(1) of the FOIA to the complainant's request.

Other matters

30. The Commissioner wishes to point out that he has received a number of complaints from the complainant relating to the foster care of his children. As he considers section 14(1) of the FOIA applied in December 2014 and most definitely at the time of the request being considered in this notice (June 2014) he wishes to draw the complainant's attention to section 50(2)(c) of the FOIA.
31. Section 50(2)(c) of the FOIA states that on receipt of an application under section 50(1), the Commissioner shall make a decision unless it appears to him that the application is frivolous or vexatious.
32. Any further complaints the Commissioner receives from the complainant against the council relating to the same issue or topic will be closed under section 50(2)(c) of the FOIA without any determination being made. This is because the Commissioner will consider any further applications from the complainant under section 50(1) relating to the same issue or topic as vexatious.

Right of appeal

33. 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@hmcts.gsi.gov.uk

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

34. 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.
35. 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

Rachael Cragg
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