

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 January 2016

Public Authority: The London Borough of Camden
Address: Town Hall
Judd Street
London
WC1H 9JE

Decision (including any steps ordered)

1. The complainant has requested information concerning the contract(s) between the London Borough of Camden (the "Council") and a named contractor regarding the draught proofing of windows in street properties in Camden. The Council has refused the request as vexatious under section 14(1) of the FOIA.
2. The Commissioner's decision is that the Council has correctly applied section 14(1) to this request. There are no further steps to be taken.

Request and response

3. On 20 May 2015 the complainant wrote to the Council and requested information in the following terms:

'I wish to know the following information regarding the contract between Camden Council and its contractor [name redacted] regarding draught proofing of windows in street properties within Camden:

What is the complete text of the terms of the contract or contracts if more than one between [name redacted] and the Council regarding the carrying out of draught proofing to the windows in street properties?

What was the date when that contract or contracts were entered into?'

4. The Council responded on 18 June 2015. It applied section 14(1) of the FOIA as it considered the request to be vexatious.
5. Following an internal review the Council wrote to the complainant on 4 August 2015. The review upheld the application of section 14(1) of the FOIA.

Scope of the case

6. The complainant contacted the Commissioner on 3 November 2015 to complain about the way his request for information had been handled. He does not accept that the request is vexatious.
7. The Commissioner considers this case is concerned with the application of section 14(1) to this request.

Reasons for decision

8. Section 14(1) of the FOIA says that a public authority does not have to comply with a request for information if the request is vexatious.
9. The Commissioner's guidance¹, published in May 2013, refers to an Upper Tribunal decision that establishes the concepts of 'proportionality' and 'justification' as central to any consideration of whether a request is vexatious.
10. The guidance suggests that the key question the public authority must ask itself is whether the request is likely to cause disproportionate or unjustified level of disruption, irritation or distress. Where this is not clear, the Commissioner considers that public authorities should weigh the impact on the authority and balance this against the purpose and value of the request.

¹ <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

11. Where relevant, public authorities also need to take into account wider factors such as the background and history of the request. The Commissioner considers that these are of particular significance in this case.
12. The Commissioner has therefore taken into account the background to this request and the volume of previous requests made by this individual. He has considered factors such as the overall burden of the complainant's requests, the continued disruption to the Council which his requests impose and the question of the purpose and value of the requests.

Background to this request

13. The Council has explained that this request is one of 26 in the last 11 months. It has provided the Commissioner with a table showing the nature of the requests it has received and the number of people involved in providing a response.

Receipt	Summary Subject	staff
14/07/2014	Details of repairs (housing)	5
14/07/2014	Painting repairs (housing)	4
14/08/2014	Mutual exchange framework (housing)	8
18/08/2014	Electoral register	4
20/08/2014	Electoral register II	4
23/09/2014	Repairs (housing)	4
27/10/2014	Impact of LLP on disclosure of report (housing)	5
02/01/2015	Mutual exchange framework (housing)	6
12/01/2015	Repairs (housing)	4
10/03/2015	Reconsider PIT on report and release of legal advice (housing)	6
16/03/2015	Mutual exchange framework (housing)	4
23/04/2015	Repairs (housing)	3

Receipt	Summary Subject	staff
13/08/2014	Details of complaint laid by [name redacted] at Highbury Corner Magistrate's Court	5
18/08/2014	Details of Council Tax claims allegedly owing	6
31/08/2014	Details of legal bundle	7
01/09/2014	Details of office move from Argyle Street to 5 Pancras Square	6
02/09/2014	Details of office move from Argyle Street to 5 Pancras Square	7
30/09/2014	Details of whether documents were paginated, etc	5
01/10/2014	Details of correspondence, letters and emails passing between the London Borough of Camden and Highbury Corner Magistrates' Court concerning the amount of costs relating to the issuing of Council Tax Summonses and ensuing proceedings	2
03/10/2014	Details of overall amount spent on the refurbishment of 5 Pancras Square	6
09/10/2014	Details of 5 Pancras Square in relation to land registry	5
27/10/2014	Details of overall cost regarding the move from Argyle Street to 5 Pancras Square	7
27/10/2014	Details of the recent sale of Argyle Street Council property	6
24/04/2015	Details on Council tax transfer a SAR	2
27/04/2015	Details on Council tax transfer a SAR	2
20/05/2015	Draught proofing of windows contract	8

14. Of these 26 requests, the Council has answered 24. Two have been handled as subject access requests under the Data Protection Act 1998.
15. The Council has explained that it has disclosed information in eighteen of the requests. In two it explained it did not hold the data and in four it applied exemptions.
16. Whilst the requests are not necessarily related, the Council has argued that there seem to be themes around the same argument and that repeated issues have been raised which continue to occupy its Housing, Information, Finance and Legal teams.

Burden of these requests and disruption to the Council

17. The Council has argued that the requests are a disruption to the Council in general and impose a significant burden in terms of expense and effort required to meet those requests. It considers that the number of the requests, their complexity and their relatively random nature are a considerable burden upon the authority.
18. The Council has argued that this has been oppressive and caused strain on the time and resources of its officers and it considers the requests taken as a whole to be manifestly unreasonable.
19. The Council has argued that the sheer number of requests demonstrates an improper use of the FOIA procedure. It considers that the frequent and overlapping nature of the requests and the scattergun approach demonstrate that this requestor is applying his right to information in a manner which is disproportionate and draining.
20. The complainant has argued that the Council has not provided evidence of the oppressive nature of the requests. In addition, he has argued that the request itself does not represent a burden.
21. The Commissioner has noted the large number of requests and accepts that the sheer volume would be a drain upon the Council's resources and therefore will have become oppressive over time.
22. The Commissioner is also satisfied that the current request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress to the Council. Whilst the request itself is not burdensome in isolation, given the background and history of previous requests, the Commissioner considers that it is inevitable this request will cause the Council an unjustified level of irritation. It is not the request itself but the background to the request which is the deciding factor in this case.

23. In view of the above, the Commissioner is satisfied that since July 2014 the complainant has made a burdensome number of requests to the Council. He is satisfied that the above requests represent a significant workload which has been placed upon the Council over this time period.
24. The Commissioner also notes that in response to the penultimate request received from the complainant, the Council had informed him that its draught proofing contract makes no reference to the internal decoration of windows after installation of draught proofing. It would appear that this response (received on 19 May 2015) prompted the request under consideration for details of the contract(s) (submitted on 20 May 2015).
25. The complainant has argued that it is contradictory for the Council to answer the first request but not the second. He considers this demonstrates that the Council does not wish to disclose details of the contract(s) to its tenants. He has also argued that the Council has not at any earlier point argued that the previous requests are burdensome or have caused continued disruption.
26. However the Commissioner notes that the Council has addressed all the complainant's previous requests and that given the volume, it might have refused earlier requests as vexatious. The Council is under no obligation to warn a complainant that it is considering section 14(1) once it begins to find that responding to a large volume of requests is becoming a burden. The Commissioner also considers it is likely this final request would significantly add to the growing irritation felt by the Council as it does appear to suggest that the requests are continuous and will not stop.

Purpose and value of the requests

27. The Council acknowledges that although there may be some merit in each of the requests individually, there is no real discernible pattern to them (other than they are housing related in one way or another). It therefore considers that they are not relevant to the wider public.
28. The complainant has argued that there is a public interest for tenants in Camden to have the requested information. He has argued that his membership of the Committee of the Camden Association of Street Properties and the Gospel Oak District Management Committee and Residents Scrutiny Committee suggest that his requests regarding housing and housing related matters are legitimate.

29. The complainant has argued that the Camden Housing Residents Scrutiny Panel is presently conducting a review of Better Homes concerning the Council's service to its tenants. The requested contract is relevant as it is with one of the Council's independent contractors involved with Better Homes. However the complainant has explained that his requests are made in a private capacity as a campaigner and not in any official capacity on behalf of the panel.
30. The Commissioner agrees that there may be some value in the individual requests and that they may be of interest to the tenants in Camden. However he does not consider that the requests are of a wider public interest. There is no suggestion of wrongdoing on behalf of the Council and it would appear the complainant is using the FOIA as a tool in his own campaign about housing in the borough.

Conclusion

31. The Commissioner does not consider that any wider purpose behind these requests outweighs the burden they are placing upon the authority. Although the current request may be of interest to the tenants in Camden, the fact that it has been submitted by one individual in his capacity as a campaigner and that this individual has made a significant number of past requests which overall have become a burden to the Council, leads the Commissioner to conclude that the request is vexatious.
32. He therefore considers the Council is correct to apply section 14(1) of the FOIA to this request.

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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