

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

### **Decision notice**

**Date:** 12 December 2022

**Public Authority:** Egerton Parish Council  
**Address:** Egerton Millennium Hall  
Elm Close  
Egerton  
Ashford  
Kent  
TN27 9DS

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

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1. The complainant requested information from Egerton Parish Council ("the Parish Council") relating to a housing needs survey. The Parish Council refused the request under section 14(1) of FOIA: vexatious requests.
2. The Commissioner's decision is that the request was vexatious and therefore the Parish Council was entitled to rely on section 14(1) of FOIA to refuse it.
3. The Commissioner does not require any further steps.

#### **Request and response**

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4. On 13 May 2021, the complainant wrote to the Parish Council and requested information in the following terms:

"whether any named individuals from the housing needs survey are involved in or members of either the EPC or NEP. I do not need you to confirm who they are at this stage, however

confirmation of whether there are or are not any known respondents who have failed to declare an interest will suffice.”

5. The Council originally relied on section 14(2) of FOIA (repeated requests) to refuse the request. On 4 July 2022 the Commissioner issued a decision notice under reference IC-109841-B1Y0<sup>1</sup> requiring the Parish Council to issue a fresh response that did not rely on section 14(2) of FOIA.
6. The Parish Council issued a fresh response on 8 August 2022, which stated that the Parish Council does not hold any information within the scope of the request. It upheld this position at internal review. However, during the course of the Commissioner’s investigation the Parish Council amended its position to refuse the request under section 14(1) of FOIA: vexatious requests.

## **Reasons for decision**

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### **Section 14(1) – vexatious requests**

7. The following analysis sets out why the Commissioner has concluded that the Parish Council was entitled to rely on section 14(1) of FOIA in this particular case.
8. The position of the Parish Council is that it considers the request to be vexatious. It is part of a pattern of requests for information in relation to the same matter, the Parish Council’s position is that continuing to comply with these requests would place a disproportionate burden on its limited resources.
9. The Commissioner recognises that the Parish Council is a very small public authority. As a small Parish Council it has only very limited resources at its disposal. The clerk has just 17 hours per week to administer the parish. The Parish Council estimates that around a third of this time is spent on dealing with correspondence from the complainant. The Parish Council provided the Commissioner with a summary of the contact it has received from the complainant since the beginning of 2021. When the Parish Council received this request on 13 May 2021 it was the seventh FOIA request that the complainant had made to the Parish Council since the beginning of that calendar year. In

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<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4020980/ic-109841-b1y0.pdf>

addition in that time the complainant had also made three complaints to the Parish Council and one complaint to the monitoring officer, which was not upheld.

10. It is common for a potentially vexatious request to be the latest in a series of requests submitted by an individual. The greater the number of requests received, the more likely it is that the latest request is vexatious. This is because the collective burden of dealing with the previous requests, combined with the burden imposed by the latest request, may mean a tipping point has been reached, rendering the latest request vexatious.
11. The Commissioner accepts the importance of transparency over any conflicts of interest of members of a Parish Council. However, the Commissioner notes that the complainant has made multiple complaints about councillors to the monitoring officer over the past two years, none of which have been upheld. The Commissioner considers that this independent scrutiny reduces the value of the request.
12. Furthermore, the Commissioner is of the view that the complainant has certain concerns which have become personal to them, and go beyond a general public interest in transparency and accountability.
13. In addition, the Commissioner notes that the Parish Council is a small organisation and as such only has very limited resources. Therefore, the threshold at which the burden becomes grossly oppressive is lower than for a larger public authority.
14. Given the context and history of the request, including the burden on the Parish Council the Commissioner considers the distress, disruption or irritation that would be incurred by complying with this request to be significant.
15. Balancing the value of the requested information to the public with the distress, disruption or irritation that would be incurred by complying with it, the Commissioner deems the high bar contained within section 14(1) is met.
16. The Commissioner's decision is that the request was vexatious and therefore the council was entitled to rely on section 14(1) of FOIA to refuse the request in its entirety.

## Right of appeal

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17. 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)

18. 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.
19. 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 .....**

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