

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision Notice**

Date: 22 March 2018

Public Authority: Haringey Council

Address: foi@haringey.gov.uk

Decision (including any steps ordered)

1. The complainant has requested information from Haringey Council (Haringey) about communications relating to a particular road (The Bank), road safety, parking and a particular school (Channing School). Haringey has refused his request as vexatious/manifestly unreasonable in accordance with section 14 FOIA and regulation 12(4)(b) EIR.
2. The Commissioner's decision is that Haringey is entitled to rely on section 14 and regulation 12(4)(b) to refuse to comply with the request.
3. The Commissioner does not require the public authority to take any steps.

Request and response

4. On 18 July 2017, the complainant wrote to Haringey Council and requested information in the following terms:

"Can you please send me copies of all communications between Cllr Morris and Haringey Council relating to The Bank (a road off Highgate Hill), Channing School and road safety and parking in the Highgate area. This should include meeting notes, records of site visits, emails, members inquires, phone conversations etc. To cover the period from 2012. I accept that some details will need to be redacted but I still want the full documents, redacted."

5. Haringey responded on 8 August 2017. It stated that the request was not caught by the FOIA.

6. Following an internal review, Haringey wrote to the complainant on 8 September 2017 and maintained its position but set out that even if information of the description specified was caught by the FOIA, the request would be rejected as vexatious. It set out its reasons briefly.
7. During the course of the Commissioner's investigation, Haringey reviewed its position and relied on section 14 FOIA and regulation 12(4)(b) EIR to refuse to comply with the request.

Scope of the case

8. The complainant contacted the Commissioner on 25 September 2017 to complain about the way his request for information had been handled. Specifically he was concerned that Haringey had not cited a specific exemption. He also set out that he had not requested any personal information and explained that it was his position that Haringey had not, in March 2017, undertaken a statutory consultation before proposing roadworks and having been 'found out' in that case, his concern is that there may be other similar cases.
9. The Commissioner considers that the scope of the investigation in this case is to determine if Haringey is entitled to rely on section 14/regulation 12(4)(b) in order to refuse to comply with the request. Whilst she notes the complainant's position in relation to a previous statutory consultation, it is not within her remit to investigate or comment on that issue.
10. Information is "environmental" if it meets the definition set out in regulation 2 of the EIR. Environmental information must be considered for disclosure under the terms of the EIR. Although the request itself does not definitively determine that some of the requested information will be environmental, it does refer to site visits and relates also to parking measures leading the Commissioner to consider that the request should be considered under both FOIA and EIR.

Reasons for decision

Section 14(1) – vexatious requests and regulation 12(4)(b)-manifestly unreasonable requests

11. Section 14(1) of FOIA allows a public authority to refuse a request if it is considered to be vexatious and under EIR, regulation 12(4)(b) allows for a request to be refused if it is manifestly unreasonable.
12. In the Commissioner's view, section 14(1) and in this case, regulation 12(4)(b) are 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 and are therefore vexatious or manifestly unreasonable.
13. This will usually involve weighing the evidence about the impact on the authority and balancing this against the purpose and value of the request. This should be judged as objectively as possible; in other words, would a reasonable person think that the purpose and value are enough to justify the impact on the public authority.
14. It is Haringey's position that there has been extensive correspondence and complaints from the complainant with Councillors, directly with officers and through member enquiries. Details of correspondence dating back to 2011 has been provided to the Commissioner to assist in reaching a decision. This does not, Haringey asserts, take account of informal correspondence on the subject.
15. In its submission, Haringey has stated that responding to this request would certainly cause disruption and irritation. It has set out that it is made up of public servants working hard to deliver services to all of the residents of the borough but that the complainant in this case is taking up a significant portion of limited resources pursuing this topic.
16. Haringey has explained to the Commissioner that it has provided information about remedial work needed to The Bank and has answered questions about traffic management and road layout. The complainant has also attended meetings which are relevant.
17. It is Haringey's position that the interim work and road layout in the area concerned has been subject to a public statutory consultation process under which the plans were amended. It has explained that decisions have been made by delegated authority and information has been published on its website. It has asserted that it would be a disproportionate use of resources to comply with the request.

18. In providing supporting documentation to the Commissioner, Haringey has included a copy of a letter to the complainant dated 2 December 2016. This letter addressed four requests made to Haringey about The Bank, parking/traffic restrictions in Highgate and Channing School.
19. This letter explained that Haringey was not complying with those four requests due to the burden imposed on the authority. Haringey made it clear that although the complainant's tone and manner did not give cause for concern, the volume of requests relating to the particular topic demonstrated that his interest appeared to have become somewhat obsessive with requests being more frequent and seeking more and more detail. Indeed, one request was addressed to the Chief Executive when it was clear that this was not the process for submitting requests and when the complainant had a contact point for the information being requested.
20. Haringey further set out its position that as the topic had escalated in importance to the complainant, he attempted to escalate it by writing directly to the Chief Executive. Haringey explained to the complainant that it was in fact a minor project impacting on a small part of the borough.
21. Haringey pointed out that it had gone as far as giving the complainant a preview of a consultation in advance of it being sent to residents but the complainant had suggested to Haringey that it was doing things 'in private' by sharing consultation letters with ward councillors before wider circulation. Haringey explained to the complainant that this was standard practice.
22. Also in its letter to the complainant, Haringey set out that it was difficult to see how a request about the breakdown of money spent on The Bank in the last 10 years could be of any practical use to the requester or to anyone else. Additionally it referenced the complainant's request whereby he wanted to "*track how much kerbside parking had been lost on Highgate Hill, the Bank...*" and one other area since the introduction of CPZ (Controlled Parking Zone). It explained that whilst such an exercise may be of interest to the complainant, it could not see that complying with the request served any wider public interest.
23. Having set out its position to the complainant. Haringey sought to be helpful by acknowledging that kerbside parking is harder to find than it used to be, explaining that one of its priorities is to reduce car use in the borough in order to reduce pollution, accidents and delays to buses.
24. Although Haringey treated all four of the requests of 2 December 2016 as vexatious, it acknowledged that a member of staff had already

agreed to provide information regarding one of the requests and accordingly that information would be provided to him. Given the reliance on section 14 on that occasion, the Commissioner considers that the provision of information would have been outside of FOIA.

25. From the letter to the complainant dated 2 December 2016, the Commissioner notes that the complainant, at that point, had submitted nine FOIA requests for information and had submitted one member enquiry. The Commissioner notes that most of those FOIA requests related to The Bank and to travel and traffic including parking.
26. Haringey has provided the Commissioner with details of correspondence submitted by the complainant who has been corresponding since 2011. In 2011 the complainant registered one general enquiry about The Bank, in 2012 he made one member enquiry and submitted three FOIA requests all relating to traffic issues/parking, in 2013 he made one FOIA request about school catchment areas, in 2014 he made three FOIA requests and one general enquiry about traffic issues/parking, in 2015 he made three FOIA requests and one general enquiry. The FOI requests related to traffic/parking whilst the general enquiry was about a consultation relating to a particular road. In 2016 the complainant made nine FOIA requests and submitted two member enquiries. The nature of the FOIA requests is covered at paragraph 22 of this notice.
27. These requests and enquiries are in addition to other, less formal correspondence between the complainant and Haringey.
28. Turning to the purpose and value of the requests, it is Haringey's position that the complainant's primary concern is in relation to Haringey's plans for a certain area and the availability of parking spaces.
29. It is clear to the Commissioner that the issue is of considerable importance to the complainant and she notes that many of his requests and enquiries, including the one under consideration in this notice, relate to the Bank and to Channing School. She acknowledges that individuals and residents of an area will often have concerns about local issues and that the FOIA/EIR are often useful vehicles in allowing individuals to gain an insight into the rationale behind decisions by promoting transparency in public authorities. She notes too that the complainant advised that he was seeking to assure himself that due process had been followed.
30. However, when considering whether a request is vexatious/manifestly unreasonable, the Commissioner must weigh up the purpose and value of the request against the burden on the authority. Although the Commissioner accepts the purpose and value of the request is of considerable importance to the complainant, it is also clear that this is

an issue which has limited wider public interest as it relates to a small area of one London Borough and has limited wider significance. As to following the due process, the Commissioner considers that the correct avenue to pursue these concerns would ultimately be via the Local Government Ombudsman.

31. The Commissioner considers that Haringey is correct to assert that the complainant has attempted to promote the importance of the requested information by contacting different individuals and maintaining contact, in some one way or another with Haringey, ensuring that the issue is not allowed to rest. Whilst there is of course always value in any transparency, the Commissioner considers that there is limited value and purpose to this request other than the complainant's own interest in the matter.
32. The Commissioner's position is that the complainant is using the FOIA and EIR to ensure that issues in which he has an interest are kept alive and his personal concerns addressed. She considers such an approach is not in keeping with the spirit of either piece of legislation and agrees that complying with the request under consideration would present a significant continued burden to Haringey which would impact on its ability to offer its FOIA and EIR services consistently to requesters and would detract from its ability to deliver an effective service to the residents of the Haringey.
33. She considers that the request has been correctly identified as being vexatious/manifestly unreasonable on the grounds of burden and she considers that a reasonable person would agree that the purpose and value of the request are very limited and certainly do not justify the impact on the public authority.
34. Given that only seven months prior to receiving this request, Haringey had refused four earlier requests as vexatious, the Commissioner considers that it should come as no surprise to the complainant that continuing to submit requests for similar/related information would inevitably result in the same conclusion.
35. From the details provided by Haringey, it is clear to see that nothing Haringey does will satisfy the complainant or persuade him to stop submitting FOIA/EIR requests and it is therefore difficult to see any way to mitigate the burden that the requests create.

Balance of the public interest

36. With regard to information falling within the scope of the request which is environmental information, the Commissioner must determine whether the balance of the public interest lies in favour of maintaining the exception at regulation 12(4)(b) or lies in disclosing the requested information which may be environmental.
37. It is Haringey's position that it accepts that there is some public interest in disclosure of the requested information as it would promote both transparency and accountability. In addition, Haringey accepts that there is some limited public interest in relation to residents who may be affected by the measures undertaken in the area where they live.
38. In favour of maintaining the exception, Haringey has set out that there is a disproportionate burden in complying with the request. It asserts that compliance would impact on service delivery and the ability to respond to other correspondents which is clearly not in the public interest. It has further explained that significant information has been made publicly available, any necessary work has been discussed and there have been two public consultations.
39. The request has limited public interest beyond the complainant himself and potentially other local individuals and in order to accept that the public interest in disclosure outweighs that in maintaining the exception, the Commissioner considers that the public interest would need to extend far beyond such a limited topic and such a limited number of people.
40. It is the Commissioner's position that in relation to information which may be environmental, the public interest lies in maintaining the exception.

Other matters

41. It is worth noting here that Haringey had expressed concerns to the Commissioner that the complainant had possibly submitted a request for information under a different name/email address or had asked someone to submit a request on his behalf.
42. The Commissioner has noted Haringey's rationale for considering this to be the case; she accepts that there was justification behind the concerns and notes that the request in question was abandoned when the requester was asked for proof of identity. However, there is no concrete evidence to support Haringey's position and as such this has not formed part of the Commissioner's considerations in reaching a conclusion. The

Commissioner asked the complainant for his comments on this issue and he has categorically denied this.

43. As a responsible regulator, the Commissioner, as should be expected, takes a dim view of anyone seeking to flout the legislation she regulates and would encourage a public authority with reasonable concerns as to the identity of a requester to seek verification of identity prior to engaging with that requester. This is clearly relatively uncommon and any public authority requiring verification of identity in such circumstances does so without prejudice to the fact that the FOIA is applicant and motive blind.

Right of appeal

44. 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 7395836

Email: GRC@hmcts.gsi.gov.uk

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

45. 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.
46. 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

Jonathan Slee
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