



Neutral citation number: [2024] UKFTT 1106 (GRC)

Case Reference: FT/EA/2024/0130

**First-tier Tribunal  
(General Regulatory Chamber)  
Information Rights**

**Heard by Cloud Video Platform  
Heard on: 2 December 2024  
Decision given on: 11 December 2024**

**Before**

**TRIBUNAL JUDGE MORNINGTON  
TRIBUNAL JUDGE HUGHES  
TRIBUNAL MEMBER PALMER-DUNK**

**Between**

**MANDY PICKLES**

Appellant

**and**

**INFORMATION COMMISSIONER**

Respondent

**Representation:**

For the Appellant: in person

For the Respondent: did not appear

**Decision:** The appeal is Dismissed

**REASONS**

**Context**

1. The history of the relationship between the parties is important in this case in that it forms the backdrop of this appeal and adds context to the Tribunal's decision.

2. In May 2023, Kelbrook and Sough Parish Council was the subject of a local election. The election resulted in 5 new councillors joining the Parish Council, all of whom had no previous experience.
3. The Appellant says that she has always recorded and live-streamed the Parish Council meetings since November 2022. However, the newly elected Council took issue with the recordings from May 2023.
4. This appears to have sparked, by the Appellant's own admission, an ongoing "battle" between the Parties which has included a litany of emails between the Appellant and the Parish Council Chair and complaints by the Appellant to the Parish Council, the local Monitoring Officer, the local MP, the Secretary of State for Levelling up, Housing and Communities and the local Police Inspector.
5. In one of his several responses, the local Monitoring Officer, Mr Howard Culshaw, stated:

*"I feel moved to add that there appears to me to be a significant "tit for tat" element in this affair generated by considerable rancour on all sides. Clearly, I can only deal with each complaint as I am required to do legally and I am not here to "back" one side or the other (and will not do so). However, I would counsel all parties that nobody has "won" or "lost", nor does my finding imply that anybody is "right" or "wrong". Finally, I make a plea for all involved, whether councillors or residents of the parish with a keen and admirable interest in its administration, always to treat each other with respect and civility."*
6. The Appellant has made Freedom of Information requests of the Parish Council on three occasions prior to the request which forms the basis of this appeal.
7. The Appellant also admits to making Subject Access Requests of the Parish Council pursuant to data protection legislation.

## **Background to Appeal**

8. This Appeal dated 5 April 2024 and made by Ms Mandy Pickles (the "Appellant") arises following a request for information (the "Request") made by the Appellant to the Kelbrook and Sough Parish Council ("the Parish Council") on 18 September 2023 in the following terms:

*"You state that:*

*'Parish Councillors only use their official parish council email; addresses to communicate Parish Council business in accordance with the e-mail policy.'*

*Can you forward the official email addresses that Councillors use please.*

*Please consider this a further FOI request."*

9. This request of 18 September 2023 flowed from the Council's responses to a previous request made by the Appellant under the Freedom of Information Act 2000 ("FOIA") on 28 August 2023, which contained 28 questions for the Parish Council to respond to.
10. The Appellant submitted this list of questions after compiling them from the residents of the Parish but made the Freedom of Information request in her name only.
11. The Public Authority responded to the 28 August 2023 request on 15 September 2023 and provided responses to all questions including the information that:  
  
*'Parish Councillors only use their official parish council email; addresses to communicate Parish Council business in accordance with the e-mail policy.'*
12. It was this response which gave rise to the further request made by the Appellant on 18 September 2023 which is the subject of the current appeal.
13. The Parish Council responded to the 18 September 2023 request on 29 September 2023 in the following terms:

*'Dear Mandy, the official email addresses that the Parish Councillors use is shown in the following document.'*

*Kind regards*

*Carole*

### **How to contact your councillors**

#### **Chairman**

*Sharon Ashley - Contact via the clerk [clerk@kelbrookandsoughparishcouncil.org.uk](mailto:clerk@kelbrookandsoughparishcouncil.org.uk)*

#### **Vice-Chairman**

*Christine Elley - Contact via the clerk [clerk@kelbrookandsoughparishcouncil.org.uk](mailto:clerk@kelbrookandsoughparishcouncil.org.uk)*

#### **Councillors**

*Gary Slinger - Contact via the clerk [clerk@kelbrookandsoughparishcouncil.org.uk](mailto:clerk@kelbrookandsoughparishcouncil.org.uk)*

*Angela Mayers - Contact via the clerk [clerk@kelbrookandsoughparishcouncil.org.uk](mailto:clerk@kelbrookandsoughparishcouncil.org.uk)*

Liz Katiff - Contact via the clerk  
[clerk@kelbrookandsoughparishcouncil.org.uk](mailto:clerk@kelbrookandsoughparishcouncil.org.uk)

Stuart Ellis - Contact via the clerk  
[clerk@kelbrookandsoughparishcouncil.org.uk](mailto:clerk@kelbrookandsoughparishcouncil.org.uk)

Darren Galway - Contact via the clerk [clerk@kelbrookandsoughparishcouncil.org.uk](mailto:clerk@kelbrookandsoughparishcouncil.org.uk)

14. The Appellant was not satisfied with the response of the Parish Council and sought further advice from the Information Commissioner's Office ("ICO"). Upon receipt of the ICO advice, the Appellant sent a formal letter of complaint to the Parish Council to set out her dissatisfaction with the 29 September 2023 response and request clarification.
15. The Parish Council responded to the Appellant's correspondence on 11 October 2023 with further clarification in the following terms:

*"Dear Mandy,*

*Please accept this letter for further clarification.*

*The councillors do have parish council email addresses, these are used to communicate parish council business. The public contact email for councillors is via the clerk email address.*

*I will recommend to the councillors at the next parish council meeting that the GDPR policy is reviewed.*

*Kind regards*

*Carole"*

16. Still dissatisfied with the response, the Appellant responded to the Parish Council once more on 12 October 2023 in terms which included, *inter alia*:

*'So, for the final time of requesting, before I take this matter further.*

*Please provide me with a list of all email addresses, along with details of all other forms of electronic communication, that each Parish Councillor and Clerk uses for Parish Council business.'*

17. It was following this correspondence sent by the Appellant on 12 October 2023 that the Parish Council emailed the Appellant on 13 October 2023 refusing to deal with the request for further information on the basis that the request is vexatious under section 14 of the Freedom of Information Act 2000.
18. The Parish Council explained to the Appellant that the clerk works only 5 hours per week and had thus far spent 28.5 hours dealing with the Appellant's various requests

under FOIA and that the burden of the requests had rendered the clerk unable to fulfil the rest of her Parish Council duties.

### **Reasons for Commissioner's Decision**

19. The matter was referred to the Information Commissioner's Office on 12 March 2024 and, in a decision notice (the "Decision Notice") dated 27 March 2024, the Information Commissioner ("IC") held that:

*"The Commissioner's decision is that the request is vexatious. Therefore, the Council is entitled to rely on section 14(1) of FOIA to refuse to comply with the request"*

20. In summary, The Commissioner's reasons for the Decision were that there had been a number of requests made by the Appellant to the Parish Council in a relatively short period of time. The Commissioner recognised that the Council is a small public authority with very limited resources and accordingly accepted that complying with the request would place severe pressure on its limited resources. The Commissioner is satisfied that the Parish Council is entitled to use a central generic email address for external correspondence from the public to streamline the process.

21. Whilst the IC Decision refers to the request of 18 September 2023, it is the Tribunal's view that the request of 12 October 2023 is in fact the appropriate request which is the subject of this appeal, rather than that of 18 September 2023.

### **Appeal and Responses**

22. The appeal relates to the application of the Freedom of Information Act 2000.

23. The Appellant appealed the Decision Notice on the following grounds:

- a. It ought not to be onerous to respond to the request;
- b. The number of requests made are not excessive;
- c. The request(s) were made in the public interest and not intended to cause frustration or annoyance;
- d. The Appellant's requests do not meet the 'high bar' set by the Upper Tribunal ('UT') in the case of *Information Commissioner v Dransfield [2012] UKUT 440 (AAC)* to be constituted as vexatious.

24. The Commissioner's response to the appeal maintains that the Decision Notices are correct and that in all the circumstances, the request was vexatious further to the case law set out by the Court of Appeal in *Dransfield v Information Commissioner & Devon County Council [2015] EWCA Civ 454* (which did not depart from the UT findings in *Information Commissioner v Dransfield [2012] UKUT 440 (AAC)*)

### **Documents**

25. The Tribunal was provided with a 276-page bundle.

## Applicable Law

26. The relevant provisions of FOIA are as follows:

**1 General right of access to information held by public authorities.**

- (1) Any person making a request for information to a public authority is entitled –
  - (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
  - (b) if that is the case, to have that information communicated to him.

**14 Vexatious or repeated requests.**

- (1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.
- (2) Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

**17 Refusal of request.**

- (5) A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.
- (6) Subsection (5) does not apply where –
  - (a) the public authority is relying on a claim that section 14 applies,
  - (b) the authority has given the applicant a notice, in relation to a previous request for information, stating that it is relying on such a claim, and
  - (c) it would in all the circumstances be unreasonable to expect the authority to serve a further notice under subsection (5) in relation to the current request.

**58 Determination of appeals.**

- (1) If on an appeal under section 57 the Tribunal considers –

- (a) that the notice against which the appeal is brought is not in accordance with the law, or
  - (b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he ought to have exercised his discretion differently,  
the Tribunal shall allow the appeal or substitute such other notice as could have been served by the Commissioner; and in any other case the Tribunal shall dismiss the appeal.
- (2) On such an appeal, the Tribunal may review any finding of fact on which the notice in question was based

27. There is no further guidance on the meaning of “vexatious” in the legislation. The leading guidance is contained in the Upper Tribunal (“UT”) decision in *Information Commissioner v Dransfield [2012] UKUT 440 (AAC)*, as upheld and clarified in the Court of Appeal (“CA”) in *Dransfield v Information Commissioner and another & Craven v Information Commissioner and another [2015] EWCA Civ 454 (CA)*.

28. As noted by Arden LJ in her judgment in the CA in Dransfield, the hurdle of showing a request is vexatious is a high one: “...the starting point is that vexatiousness primarily involves making a request which has no reasonable foundation, that is, no reasonable foundation for thinking that the information sought would be of value to the requester, or to the public or any section of the public. Parliament has chosen a strong word which therefore means that the hurdle of satisfying it is a high one, and that is consistent with the constitutional nature of the right. The decision maker should consider all the relevant circumstances in order to reach a balanced conclusion as to whether a request is vexatious.” (para 68).

29. Judge Wikeley’s decision in the UT Dransfield sets out more detailed guidance that was not challenged in the CA. The ultimate question is, “is the request vexatious in the sense of being a manifestly unjustified, inappropriate or improper use of FOIA?” (para 43). It is important to adopt a “holistic and broad” approach, emphasising “manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious requests.” (para 45). Arden LJ in the CA also emphasised that a “rounded approach” is required (para 69), and all evidence which may shed light on whether a request is vexatious should be considered.

30. The UT set out four non-exhaustive broad issues which can be helpful in assessing whether a request is vexatious:

a. **The burden imposed on the public authority by the request.** This may be inextricably linked with the previous course of dealings between the parties. "...the context and history of the previous request, in terms of the previous course of dealings between the individual requester and the public authority in question, must be considered in assessing whether it is properly to be characterised as vexatious. In particular, the number, breadth, pattern and duration of previous requests may be a telling factor." (para 29).

b. **The motive of the requester.** Although FOIA is motive-blind, "what may seem like an entirely reasonable and benign request may be found to be vexatious in the wider context of the course of dealings between the individual and the relevant public authority." (para 34).

c. **The value or serious purpose.** Lack of objective value cannot provide a basis for refusal on its own, but is part of the balancing exercise – "does the request have a value or serious purpose in terms of the objective public interest in the information sought?" (para 38).

d. **Any harassment of, or distress caused to, the public authority's staff.** This is not necessary in order for a request to be vexatious, but "vexatiousness may be evidenced by obsessive conduct that harasses or distresses staff, uses intemperate language, makes wide-ranging and unsubstantiated allegations of criminal behaviour or is in any other respects extremely offensive." (para 39). 23. Overall, the purpose of section 14 is to "protect the resources (in the broadest sense of that word) of the public authority from being squandered on disproportionate use of FOIA" (UT para 10), subject always to the high standard of vexatiousness being met.

## Discussion and Conclusions

31. In accordance with section 58 FOIA, the issue for the Tribunal to decide upon is whether the IC's Decision Notice was in accordance with the law and whether the IC was correct in finding that the Parish Council was entitled to rely on section 14(1) FOIA in refusing to reply to the Appellant's request of 12 October 2023.



32. Under section 58(2) FOIA, the Tribunal is able to review any finding of fact upon which the Decision Notice was based, consider all of the evidence before it and reach its own decision.
33. The Tribunal has considered the suggested list of factors set out in the *Dransfield* case and the overall circumstances of the case, including the history of the relationship between the parties.
34. **The burden imposed on the public authority by the request.** This is a key factor relied upon by the Parish Council. Whilst the Tribunal accepts that just because a request is burdensome, this does not absolve the Parish Council from their legal obligations under FOIA, there have been numerous written questions, emails, subject access requests and letters of complaint in addition to several FOIA requests made by the Appellant. One such FOIA request included no less than 28 questions.
35. The Appellant says that the requests are not onerous and should be simple and easy to answer if they had been handled properly in that the information requested ought to be readily available to the Parish Council. She questions how the request, which is the subject of this appeal, can be vexatious when in reality she was requesting that she be provided with 7 email addresses.
36. It may be the case that each request, email or complaint ought to be easy to answer, however, the Tribunal has considered the aggregated burden of dealing with the volume of the correspondences, particularly in light of the clerk providing only 5 hours work per week to the Parish Council and having already spent 28.5 hours in dealing with the Appellant's FOIA requests prior to the refusal which forms the basis of this appeal.
37. **The motive of the requestor.** It is the case generally that the application of FOIA and any request made under it is not dependant on the motive behind the request. However, section 14 is an exception to this principle. The motive of the requestor can be an important factor as to whether a request is vexatious in the wider context of the dealings between an individual and a public authority. In this case, the Appellant says that her motive for making the request is to shine a light on how the information is held by the Parish Council in a way which promotes compliance with FOIA and data protection legislation. However, the history of the relationship between the Appellant and the Parish Council suggests that the FOIA request and the motivation to obtain the email addresses of the Councillors are being used as part of a campaign to question and undermine the Parish Council.
38. **Value or serious purpose.** The Tribunal notes that the Appellant admits that the email addresses for Councillors were removed from the Parish Council website. It therefore follows that the Appellant has been aware of the email addresses she is looking to obtain in this request. However, even if it were not the case, the Appellant is aware, from the provision of the *clerk@kelbrookandsoughparishcouncil.org.uk* email

address that the suffix to the official email addresses is @kelbrookandsoughparishcouncil.org.uk. Accordingly, it is relatively simple to work out what the email address for each of the 7 councillors will be, particularly since the Appellant knows them all by name.

39. The Tribunal considers that the information is trivial and that the Appellant's request of 12 October 2023 is a positional ploy to build upon the acrimonious exchanges which have already taken place between the Appellant and the Parish Council. The information requested holds no practical value in that the email addresses do not tell the Appellant anything or provide any meaningful information.
40. **Any harassment of, or distressed caused to, the public authority's staff.** The Tribunal does not find that the Appellant has harassed the Clerk at the Parish Council, nor has she used the extreme types of language and behaviour referred to in the *Dransfield* test. However, the Tribunal does accept that the tone of the Appellant's emails has sometimes been aggressive and that the volume of correspondences and FOIA requests would have caused some distress to the Clerk given her weekly time constraints.
41. **The overall circumstances of the case.** As set out in the *Dransfield* test, the Tribunal is to take a rounded and holistic approach when considering whether the IC was correct in finding that the Parish Council was entitled to rely on section 14 of FOIA.
42. The Tribunal finds that the request of 18 September 2023 was not vexatious in that it was a legitimate question arising from the previous FOIA request made by the Appellant. However, the Tribunal also finds that the response from the Parish Council Clerk dated 29 September 2023 is perfectly reasonable and adequately addresses the question put to the Parish Council by the Appellant, although the Appellant may consider the interpretation of the request differently to how the Clerk interpreted it.
43. Accordingly, the request was responded to appropriately.
44. Having considered all of the circumstances, the Tribunal finds that it is the making of the further request on 12 October 2023 which is vexatious. The request was manifestly unjustified. The Appellant had already received a response, is likely to have already known the information and persisted in making a repeat request with threats of "taking this further". Whilst the Appellant believes her requests are in the public interest, this request appears to form part of a wider campaign to undermine the Parish Council and cause a significant diversion from the main work of the Parish Council. This is not in the public interest.
45. The Tribunal would mirror the sentiments of Mr Culshaw, the Monitoring Officer in that this request and subsequent appeal, appears to form part of ongoing retaliatory acts between the parties which detract significantly from the work that the Parish Council hopes to achieve with its limited time and resources.

46. The Tribunal has taken into account the underlying purpose of section 14 FOIA in this case, to protect the already very limited resources of the Parish Council and accordingly finds that the Council was entitled to rely on section 14 (1) FOIA to refuse to reply to the request of 12 October 2023.

47. The Tribunal dismisses the appeal for the reasons given above.

Signed Judge Peri Mornington

Date: 4 December 2024