

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 23 September 2010

Public Authority: Bradford Metropolitan District Council
Address: City Hall
Centenary Square
Bradford
BD1 1HY

Summary

The complainant requested all recorded information held about why parking permits were previously sent to the wrong entity in respect to a given development. The public authority explained that in its view, it was not required to answer this request because it was excluded from doing so by the operation of section 14(1) [the request was vexatious]. It rejected the opportunity to conduct an internal review, although it did provide more reasons for its position.

The complainant referred this case to the Commissioner. After carefully considering this request in its context, the Commissioner has found that a reasonable public authority would be entitled to find this request vexatious and rely on the exclusion found in section 14(1). He does not uphold this complaint. He requires no remedial steps to be taken.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.
2. In order to ensure that the request was considered under the correct legislation, the Commissioner has carefully considered the sort of information that is being withheld in this case and has come to the decision that it does not satisfy the definition of 'environmental information' found in Regulation 2(1) of the Environmental Information

Regulations (the 'EIR'). He has not therefore considered the operation of the EIR further in this case as in his view they do not apply.

Background

3. The complainant believes that parking permits should not have been issued on the stretch of road that fronts his house. This was allowed by the City of Bradford Metropolitan District Council (Traffic Regulation) (No 29) Order 2000. In particular, he is unhappy that there are no time restrictions imposed on the permits, that it allows permit holders a 'private car park' and causes a nuisance to residents.
4. The public authority explained that the permit scheme was intended to remove long term commuter parking, to reduce congestion and allow residents and others who have legitimate interests to use the spaces.
5. There is a dispute about how permits have been allocated and the complainant is seeking information about the underlying relationship between the Council and those to whom the permits had been allocated.

The Request

6. On 30 October 2009 the complainant made the following request for information:

'I am in possession of confirmation in a letter from Bradford Metropolitan District Council {BDMC} along with comments contained in an email from your [Named staff member A] that parking permits for the use of [Road redacted]¹ Chapel were in fact sent to [Organisation redacted], I am aware that this practice has now been changed. However, in the interests of transparency and accountability I am requesting, in hard copy, the following under the Freedom of Information Act 2000.

All and any information relating to this arrangement held in whatsoever form, fax, email, letter, minuted conversations, etc. by BDMC, from initial discussions right through to agreement and implementation.'

¹ The redactions made in this Decision Notice are consistent.

7. On 12 November 2009 the public authority issued its response. It stated:

'As your current FOI request is related to the [House redacted] issue, I must decline your request as the current Vexatious Request designation under FOI 14 (1) still stands. If you wish to discuss or receive any information on an unrelated matter, please let me know and I will deal with it.'

8. On 17 December 2009 the complainant requested that an internal review was conducted:

'I am requesting Bradford Metropolitan District Council {B.M.D.C.} reconsider it's refusal to respond to my request under the {F.o.I} Act.

Furthermore, this request does not relate to parking issues fronting [House redacted], instead I would argue this request goes to the heart of the relationship between your [Named staff member B], the [Organisation redacted] and [Road redacted] Chapel prior to the Implementation of the so-called "Residents Parking" scheme.

I would suggest you would be hard pressed to deny that the above two entities were treated more than favourably by your [Named staff member B], therefore this request is exactly what the {F.o.I.} Act is all about, i.e. transparency and accountability. In other words why exactly were both [Organisation redacted] and [Road redacted] Chapel given preferential treatment and on what grounds were parking permits for [Road redacted] Chapel sent to the [Organisation redacted].'

9. On 29 January 2010 the public authority decided to waive its right to carry out an internal review, although explained its position in more detail:

'I am replying in response to your request for information on 30th October 2009. You have requested all and any information relating to parking permits for the use of [Road redacted] Chapel and [Organisation redacted] held in whatsoever form, fax, email, letter, minuted conversations, etc. by BDMC, from initial discussions right through to agreement and implementation. I can confirm that Bradford Council holds information in relation to this issue in recorded form.'

However, the request relates to similar previous requests, to which the Council has provided a comprehensive response. One of the responses elicited a review in May 2009, in which an independent Council officer agreed with the decision of the Transportation and Highways Department to treat future similar requests around this issue as vexatious under section 14(1) of the Freedom of Information Act.

The Council is therefore refusing to respond to your request of 30th October 2009 under section 14(1) of the Freedom of Information Act since it is substantially similar to previous requests and, considered alongside previous correspondence, this request:

- is disruptive to the work of the Council*
- places a disproportionate resource burden on the Council*
- unreasonably demands information which has already been provided*

If you wish to request information on an unrelated matter, please contact me and I will be happy to deal with your request.

An internal review has already been carried out in relation to your requests for information about the parking scheme for [Organisation redacted] and [Road redacted] Chapel; Bradford Council will not therefore carry out another review in relation to this same subject.'

10. On 4 February 2010 the complainant wrote to the Council to express deep dissatisfaction about how the above request had been handled and asked for it to reconsider its position.

The Investigation

Scope of the case

11. On 18 November 2009 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant provided the request and told the Commissioner that he was in receipt of a letter informing him that information would not be provided. The Commissioner asked to be provided with the refusal notice and also explained that he expects that a public authority's internal review process is exhausted before he considers a case substantively.

12. On 15 February 2010 the complainant explained that he had been through the correct procedure, explained that his request for the complaint to be reconsidered was unsuccessful and that he would like the Commissioner to process his appeal against the public authority's failure to provide the information that he had requested.
13. On 21 June 2010 the complainant confirmed that he was content with the scope of this investigation being:
 - *To determine whether or not [the] request dated 30 October 2009 has been correctly refused as vexatious, or whether the information should be disclosed to the public.*
14. The complainant also raised other issues that are not addressed in this Notice because they are not requirements of Part 1 of the Act. The Commissioner can only consider information access matters and can make no comment at all about the integrity of allocating parking permits or the process that has been undertaken.

Chronology

15. On 17 February 2010 the Commissioner wrote to the complainant and the public authority to confirm that the case was eligible for consideration.
16. The public authority replied to the Commissioner on 15 March 2010. It explained its position.
17. On 29 March 2010 the Commissioner wrote to the public authority. He asked for a copy of the withheld information to check whether it was environmental information, to be informed what information had been provided to the complainant and the history of the previous correspondence that led it to decide that the present request was vexatious.
18. The Commissioner wrote to the complainant on the same day. He explained his remit and the proposed scope of the investigation. He asked for the complainant to confirm that he understood his remit and the scope of his investigation. He also asked for the complainant's arguments about why he believed his request was not vexatious and why he believed he had not received the information previously.
19. On 15 April 2010 the public authority responded to the Commissioner's letter. It provided a folder of its previous interaction with the

complainant and explained its position further. The Commissioner acknowledged the receipt of the file.

20. The complainant responded to the Commissioner's email on 21 June 2010. He confirmed that he understood his remit and was content with the scope of the investigation. He explained that he did not believe he had received any information that was embraced by this request. He also presented his arguments about why this request was not vexatious and these will be considered in the analysis section of this Notice.
21. On 24 June 2010 the Commissioner wrote to the public authority to invite it to detail further submissions about why it believed that the request was vexatious.
22. The public authority provided a response to those enquiries on 2 August 2010.

Findings of fact

23. The complainant has been in continuous correspondence about parking permits on his street with the public authority since at least July 2006. In that time he has made a number of requests for information. The Commissioner believes that it is useful to provide a summary of them at this juncture:
 1. 11 December 2006: All recorded information between the public authority and [Organisation redacted] in respect to the parking arrangements fronting [House redacted]. *The public authority responded to it and provided relevant information.*
 2. 4 January 2007: All recorded information which relates to parking arrangements that have been implemented for [Road redacted] Chapel and about 'special' parking permits. *The public authority responded to it and provided relevant information.*
 3. 13 May 2007: What agreements, arrangements, terms and conditions whether explicit or implied allow an individual to use a permit in an outlined manner and what checks and balances have the public authority put into place. Also the full details of public bodies to which he can make a complaint about the effect of parking permits. *The public authority responded to it and provided relevant information.*
 4. 4 June 2007: To whom were 'special' parking permits issued, why are they 'special' and what is the relationship

between [Organisation redacted] and a specific permit number and to which outside public bodies can he make a complaint to. *The public authority responded to it and provided the relevant information that it believed it held.*

5. 29 October 2007: Reiteration of the request about a specific permit holder and [Organisation redacted]. Further information requested about the permit. Request repeated on 31 October 2007 and 3 December 2007.
6. 9 December 2007: Request for line management information of those individuals considering the matter. *The information was provided. The public authority also explained that it had already spent over 30 hours of officer's time in respect to his various requests.*
7. 13 November 2008: Request for more information about the link between [Organisation redacted] and [Road redacted] Chapel and various other issues that were regarded to be unresolved. *The public authority explained that it now believed that the requests had become vexatious and that it would not respond to any further requests about either the parking on [Road redacted] or the operation of the parking scheme by [Organisation redacted] and/or [Road redacted] Chapel. It explained that correspondence in respect to this matter would be filed. It said that it had decided to apply section 14(1) because it viewed the requests as obsessive and manifestly unreasonable and that they cause a disproportionate burden and distract staff from other matters.*
8. 30 October 2009: *Date of this request.* While there was a hiatus in formal requests under the Act, the public authority explained that it did exchange a considerable number of items of correspondence with the complainant throughout this time.
24. It is also noted that the public authority visited the area in order to investigate the concerns expressed by the complainant on 19 November 2007.
25. The public authority has provided a breakdown of the estimated work that has been undertaken in respect to the various requests outlined above. The Commissioner thinks it is useful to reproduce this table on the next page of this Notice:

Area	Activity which would be included in determination of the appropriate limit (FOI request only)	Other activities, eg. Correspondence, meetings, background reading.
Transportation and Highways Area Office	200 hours	30 hours
Assistant Direct – Transportation and Highways	0	5 hours.
Legal Services	0	6 hours
Strategy and Performance Service (Internal Freedom of Information Coordination)	0	Meetings 4 hours. Also responses needed to be drafted.
Assistant Director – Neighbourhood Services (Internal Review)	0	Meetings 2 hours. Reading time for internal review 1 hour.
Total	200	48
	Grand total	248 hours +

Analysis

Substantive procedural matters

26. The principal issue that the Commissioner has been asked to determine is whether the request for information dated 30 October 2009 is vexatious.
27. The public authority contends that the request correctly considered in its context is vexatious and that it should be entitled to rely on section 14(1). In addition, it was of the belief that all the relevant recorded information that it held had already been provided in any event. The Commissioner will consider its detailed arguments below.
28. The complainant argues that there is no doubt that his request is not vexatious and that a reasonable public authority could not rely on

section 14(1) in this case. The Commissioner will also consider his detailed arguments too.

29. Section 14(1) is an exclusion that provides that –

“Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious”.

30. The Commissioner’s view is that the time he can consider whether the request is vexatious is the date that the request was received by the public authority, so on 30 October 2009.

31. When assessing whether a request is vexatious the Commissioner adopts the view of the Information Tribunal (the ‘Tribunal’) decision in *Ahilathirunayagam v Information Commissioner’s Office* [EA/2006/0070] (paragraph 32); that it must be given its ordinary meaning so would be likely to cause distress or irritation. The enquiry is based on objective standards. This has been reaffirmed by the Tribunal in *Gowers v Information Tribunal and London Camden Borough Council* [EA/2007/0114] (paragraph 27). The Commissioner has developed a more detailed test in accordance with his guidance but it is important to understand that it has developed from these general principles and these guide him in applying his test.

32. The Commissioner also endorses the Tribunal’s consideration of this point in *Mr J Welsh v the Information Commissioner* [EA/ 2007/0088] (paragraph 21) where it stated:

‘In most cases, the vexatious nature of a request will only emerge after considering the request in its context and background. As part of that context, the identity of the requester and past dealings with the public authority can be taken into account. When considering section 14, the general principles of FOIA that the identity of the requester is irrelevant, and that FOIA is purpose blind, cannot apply. Identity and purpose can be very relevant in determining whether a request is vexatious. It follows that it is possible for a request to be valid if made by one person, but vexatious if made by another; valid if made to one person, vexatious if made to another.’

33. The Commissioner has taken into account the complainant’s previous interaction with the public authority when determining whether the request can be correctly characterised as vexatious. This means that even if the request appears reasonable in isolation, it may be vexatious when considered in context. The public authority argues that it should

be entitled to maintain its position in this case because this request is related to the underlying complaint.

34. The Commissioner has issued Awareness Guidance 22 as a tool to assist in the consideration of what constitutes a vexatious request. This guidance explains that for a request to be deemed vexatious the Commissioner will consider the context and history of the request as well as the strengths and weaknesses of both parties' arguments in relation to some or all of the following five factors to reach a reasoned conclusion as to whether a reasonable public authority could refuse to comply with the request on the grounds that it is vexatious:

(1) whether compliance would create a significant burden in terms of expense and distraction;

(2) whether the request has any serious purpose or value;

(3) whether the request has the effect of harassing the public authority or its staff;

(4) whether the request is designed to cause disruption or annoyance; and

(5) whether the request can otherwise fairly be characterised as obsessive.

35. The Commissioner's Guidance called 'When can a request be considered vexatious or repeated?' is available online at the following link:

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/vexatious_and_repeated_requests.pdf

36. When considering the public authority's reliance upon section 14(1), the Commissioner has had regard to the Information Tribunal's decision in *Mr J Welsh v the Information Commissioner* [EA/2007/0088] (at paragraph 26). In that case, the Tribunal spoke of the consequences of determining a request vexatious. It pointed out that these are not as serious as those of finding vexatious conduct in other contexts and therefore the threshold for vexatious requests need not be set too high.

37. The public authority has indicated in its arguments to the Commissioner that it believes that factors (1), (2), (3) and (5) apply in this case. The Commissioner has looked at each of these factors in turn.

Does the request constitute a significant burden in terms of expense and distraction?

38. When considering this element of his test the Commissioner endorses the Tribunal's approach in *Welsh* (in paragraph 27). It stated that whether a request constitutes a significant burden is

"...not just a question of financial resources but also includes issues of diversion and distraction from other work..."

39. The Commissioner therefore expects a public authority to show that complying with the request would cause a significant burden both in terms of costs **and** also diverting staff away from their core functions.

40. The Tribunal in the case of *Gowers v the Information Commissioner & London Borough of Camden* [EA/2007/0114] emphasised that previous requests received may be a relevant factor:

'...that in considering whether a request is vexatious, the number of previous requests and the demands they place on the public authority's time and resources may be a relevant factor' (paragraph 70 of its decision).

41. The public authority asked for the Commissioner to take into account the following arguments about the request's context, which the Commissioner considers to be relevant to the burden of the request:

- The complainant has kept in continuous correspondence about the parking permits scheme. The Council has tried to address his concerns and has investigated the matter already. It has also added further parking enforcement and invited the complainant to use its complaints procedure, but the complainant refused to do so;
- The requests and associated correspondence in its view all emanate from the issue about parking in front of the complainant's property;
- It had already answered a number of requests about this matter and has in its view provided all the information that it holds about this matter. The provision of the information has not abated the complainant's concerns, nor discouraged him from making further requests;

- That the complainant has shown that he will not be happy with whatever information that he would receive and it would lead to more correspondence; and
- That the public authority had already undertaken over 200 hours work in respect to his requests and done a further 50 hours more work on the main issue. It explained that it believed that its Transport and Highways Area Office was now being distracted from its core functions.

42. The complainant argued that the burden in this case is negligible. He explained:

'Clearly an arrangement was put in place to send a parking permit to an address, ([Organisation redacted]), other than the one used by the end user. ([Road redacted] Chapel). Documentation must have been raised to facilitate this arrangement, I would not envisage there to be copious amounts of information involved and therefore not too difficult or costly to provide.'

43. He also expressed the view that this request was not connected to his earlier requests because:

'This F.o.I. request is to ascertain the relationship between BMDC, [Organisation redacted] and [Road redacted] Chapel prior to the implementation of the "Residents Parking Scheme" and to determine if there is any arrangement or agreement between the above mentioned three parties that militates against the interests of council tax payers. This request stands alone and is separate from the parking issues concerning the area.'

44. When considering the facts the Commissioner is satisfied that a great deal of the public authority's time has already been spent dealing with previous requests and with complainant's associated correspondence about the residents parking scheme. He finds that he disagrees with the complainant that this request is not connected to the earlier requests. Indeed this request relates to the distribution of the parking permits to the scheme that fronts his house, which the Commissioner believes has been correctly connected to the other requests about the same scheme.

45. The Commissioner has considered the reasoning in the Tribunal decision of *Coggins v Information Commissioner* [EA/2007/0130] about what constitutes 'a significant administrative burden' and is satisfied that the requests in this case if dealt with without utilising section

14(1) would have contributed to a *'significant distraction from its core functions'* (paragraph 27 of its decision).

46. The Commissioner has also considered in this determination the approach of the Information Tribunal in *Betts v The Information Commissioner* [EA/2007/0109], where the Tribunal indicated that it would be reasonable for the public authority to consider its past dealings with the complainant, particularly in relation to its experience of answering one request which would likely lead to still further requests. This had the effect of perpetuating the requests and adding to the burden placed on the authority's resources. The Tribunal said:

'...it may have been a simple matter to send the information requested in January 2007, experience showed that this was extremely likely to lead to further correspondence, further requests and in all likelihood complaints against individual officers. It was a reasonable conclusion for the Council to reach that compliance with this request would most likely entail a significant burden in terms of resources.'

47. The Commissioner has examined the pattern of the requests and has no doubt that this was what was happening in this case. The public authority explained that it had provided all the information that it had, yet it still received further requests and would carry on to do so. He believes that the public authority has demonstrated that the complainant, when unhappy with any response received from a public authority, will continue to correspond in an effort to sway the public authority to respond in a manner more to his liking. It is reasonable for the public authority to consider that compliance would lead to further correspondence, thereby imposing a significant burden.
48. Assessing all the circumstances of the case, the Commissioner finds that the request dated 30 October 2009, taken in the context of the hours spent dealing with the previous correspondence about the specified parking permits and the resulting distraction from the public authority's core purposes, would impose a significant burden in terms of both expense and distraction. He therefore finds in favour of the public authority on this factor. The Commissioner finds that this is a significant factor in favour of applying section 14(1).

Did the request have value and/or a serious purpose?

49. As noted above, the complainant argued his request has value and a serious purpose since the information will enable him to consider the relationship between the public authority, [Organisation redacted], and [Road redacted] Chapel prior to the implementation of the "Residents

Parking Scheme" and to determine if there is any arrangement or agreement between the above mentioned three parties that militates against the interests of council tax payers. He explained that in his view there were serious questions about this matter that may be underlying the Council's inadequate procedures and response to his complaint. The value of the disputed information, if held, is that it will allow interested parties to check carefully the relationship and therefore provide accountability of the Council's actions. He explained that it was important to understand that permits used by [Road redacted] Chapel were sent and registered to [Organisation redacted] thus avoiding transparency and possible accountability and the Act should ensure that the tax payer understands why.

50. The public authority's view is that the request had neither a serious legitimate purpose nor any value when considering it in context. It explained that it agreed that the original request did have a serious purpose and it was adhered to by providing all the relevant information that it held. It also sent the Commissioner a copy of what had been provided. It explained that in its view the information provided should have clarified the relationship between the three parties and that no detrimental agreement existed between them. The Council said that it appreciated that the complainant had concerns about the scheme, but explained that the further requests for information, when it had already provided all the relevant information it held, in its view served no serious purpose and had no value.
51. It explained that when one considers this request, it was important to consider how the Parking Permit Scheme operates. It said that there was originally a consultation process between residents and local families to discuss how a parking scheme could be calibrated to best serve each building. It stated that the Scheme was designed to provide legitimate parking for those who are entitled. It explained that the Scheme was agreed by the local Area Committee that decides how local money will be spent. The Area Committee is a collection of democratically elected ward members and it has voted to keep the scheme under operation. The public authority is not able to revise the arrangement without the support and financial backing of the Area Committee. It would not now be able to put double yellow lines in this area, as the complainant has requested, even if it wanted to.
52. The Commissioner has also asked the public authority to outline how the complainant's complaint about Parking Permits has proceeded. The public authority explained that the complaint had progressed through Stage One of its process. The complainant was made aware that he could make a further complaint through Stage Two (to the Assistant Director of the relevant department) directly, but he did not. Instead,

he wrote to the Chief Executive directly about his request for information. The public authority explained that, due to the Tier of management involved, that this was the equivalent of Stage Two of its process. The Commissioner is also aware of threats to go to the Local Government Ombudsman although is not certain that this path was taken.

53. The Commissioner believes after considering all the correspondence that the requests have become a manifestation of the substantive complaint. He has been satisfied that the public authority has provided as much information as it can and that the request dated 30 October 2009 has no serious value or purpose in its context. He therefore finds that this factor favours the public authority, although he has not placed much weight on it in his analysis. He has not placed much weight on this factor because he believes that the complainant sincerely believed he had a serious purpose and the arguments on this factor were fairly finely balanced.

Did the request have the effect of harassing the public authority or its staff?

54. The complainant contends that there is no evidence of this request harassing the public authority or its staff, other than correctly holding it accountable for its actions. Instead he believed it was important that the information held was out in the open so that the public authority's actions were open to scrutiny.
55. The Commissioner appreciates that to harass is a strong verb and emphasises that it is the effect of the request and not the requester that must be considered. It is an objective test – so a reasonable person must be likely to regard the request as harassing or distressing. The Commissioner's guidance states that the features that could make a request have the effect of harassing the public authority or its staff are:
- Volume and frequency of correspondence;
 - The use of hostile, abusive or offensive language;
 - An unreasonable fixation on individual members of staff; and
 - The mingling of requests with accusations and complaints.
56. The Commissioner accepts it was not the intention of the complainant to cause distress in this case.
57. The public authority has argued that the effect of this request should be carefully judged in light of both the complainant's previous behaviour and the subject matter of the request.

58. In respect to the complainant's previous behaviour the public authority believed that his previous correspondence was frequently disparaging of the Council as a whole and sometimes became personal. It cited for an example email dated 15 January 2008 which said:

'for some reason they do not seem to take a lot of notice of you [named officer redacted], can't think why!'

59. The public authority also provided the Commissioner with a copy of all the correspondence exchanged with the complainant arranged in chronological order. The Commissioner notes that the tone of the correspondence is generally cordial, although there are examples when the tone strays to being disparaging as well against individuals who work for the public authority. The Commissioner has identified a number of examples where this is so and will provide some examples which are indicative of the nature of correspondence in respect to one officer below:

- 13 November 2008 [addressed to a specific officer] *'your failure to address the open challenge and deny that you are responsible for a diabolical shambles of a so-called residents parking scheme'*
'I would only say that if the aforementioned email is any guide to the ability and caliber [sic] of certain officers employed... then it comes as no surprise to me that there is a large hole in the centre of the city of Bradford'
- 24 March 2009 *'You couldn't make it up.'*
- 23 April 2009 [addressed to a specific officer about the presence of cars on his street] *'You should hang your head in shame.'*
- 5 June 2009 *'Needless to say it is still the same old not fit for purpose diabolical shambles that you presided over previously.'*

60. The Commissioner notes that the frequency, nature and volume of requests directed against specified individuals have caused distress to those individuals. The Commissioner received an example where one individual discussed the distress that they have experienced. The Commissioner has been satisfied that the distress is real and that the complainant's correspondence was responsible for it.

61. The Commissioner notes that the majority of emails sent by the complainant are qualified with the statement:

'alleged and without prejudice.'

62. While it could be argued that the purpose of this line was to distance the complainant from making actionable libellous statements, the Commissioner does not believe that this statement mitigates the distress that has been experienced by the public authority's staff.
63. The public authority also explained that continuous correspondence about the residents parking scheme meant that the relevant department was being harassed. The complainant maintains consistent pressure on the public authority to encourage it to abandon the scheme and paint double yellow lines outside his house. The Commissioner believes that there must be a point where further correspondence has the effect of harassing the public authority and believes that this point has been reached in this case. He therefore finds that this factor favours the public authority and has decided this factor deserves real weight on the facts of this case.

Can the request be characterised as obsessive?

64. The complainant contends that his request for information is not obsessive. He explained that:

'There is no reason otherwise to describe this request as obsessive , this is a stand alone request which has not been laboured or made repeatedly, I would allege any attempt by BMDC to link this to other F.o.I requests is an attempt to circumvent the Act and thereby avoid providing the transparency the Act requires.'

65. The public authority contends that this request was obsessive. It explained that the complainant has pursued the matter about the Parking Scheme beyond what was reasonable at the date of the request. The pattern of requests and incidents has already been commented on in paragraph 41 and the complaints channels that have been utilised in paragraph 52. It explained that the complainant was ignoring the correct channels and was continuing to request information that had been either provided or was not held. The public authority acknowledged that the request was not an exact duplicate. However, it explained that the recorded information that it would hold for it was the same information that had been provided in respect to the earlier requests.
66. The public authority also explained that the nature of the request was obsessive. It noted its arguments about how the parking scheme operated in paragraph 51 above. It explained that in its view the users

of [Organisation redacted] and [Road redacted] Chapel have a legitimate right to park on [Road redacted] despite the complainant's belief to the contrary. It explained that it had increased parking enforcement on the road as a result of the complainant's concerns but this was not enough to abate his concerns. Indeed, it believed that the only option that may placate the complainant would be to paint yellow lines on the road and abandon the residents parking scheme. It explained for the reasons in paragraph 51 that it was not able to do that and that it did not believe that this solution would have been equitable to the other road users.

67. The Commissioner has carefully considered where the balance lies in this case. He notes that the principal issue is the operation of the residents parking scheme. He believes that there is importance in accountability and transparency where possible. However, against this he also feels that it is important that public authorities are able to use their resources effectively to promote the public good. Protection should therefore be provided where a sequence of requests that have already been dealt with becomes a continuous burden on the public authority's resources.
68. The Commissioner accepts that at times there is a fine line between obsession and persistence and each case should be determined on its own facts. In this case, the Commissioner considers that the nature of the request falls within the definition of obsession, as there is evidence that the substantive issue has been explored and that the complainant is never likely to be satisfied unless the parking scheme is abandoned.
69. He therefore believes the public authority was correct in characterising this request as obsessive and also finds in favour of the public authority on this factor.

Could a reasonable public authority refuse to comply with the request on the grounds that it is vexatious?

70. The Commissioner recognises that there is a fine balancing act between protecting a public authority from meritless applications and the promotion of the transparency in the workings of an authority.
71. The Commissioner has considered all the evidence presented, including the history and context of the request. He has determined that a reasonable public authority was entitled to find the complainant's request of 30 October 2009 vexatious.

72. In arriving at this decision, the Commissioner has had regard to the Information Tribunal's decision in *Mr J Welsh v the Information Commissioner* [EA/ 2007/0088], where the Tribunal commented that the threshold for vexatious requests need not be set too high. He notes that it is not necessary for every factor to be made out from his guidance. In this case he has found that four factors were satisfied in this case and the Commissioner's decision in this case therefore rests on the complainant's request causing a significant burden in terms of expense and distraction, serving no serious purpose, having the effect of harassing the public authority and being obsessive.

Procedural Requirements

73. The public authority has also complied with all the procedural requirements of the Act in this case.

The Decision

74. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act:
- It was entitled to characterise the request for information dated 30 October 2009 as vexatious and was excluded from its obligation to comply with section 1(1) of the Act by virtue of section 14(1); and
 - It complied with all the procedural provisions of the legislation.

Steps Required

75. The Commissioner requires no steps to be taken.

Right of Appeal

76. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

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.

Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 23rd day of September 2010

Signed

**Andrew White
Group Manager Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

Section 1

General right of access to information held by public authorities

Section 1 of the Act provides that:

(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.

(2) Subsection (1) has effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14.

(3) Where a public authority—

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.

Section 14 – Vexatious or repeated requests

Section 14 of the Act provides that:

(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.