

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 January 2014

Public Authority: Stanton Parish Council
Address: Eldergreave Farm
Stanton
Ashbourne
Derbyshire
DE6 2DD

Decision (including any steps ordered)

1. The complainant has requested a copy of a specific set of Stanton Parish Council ('the council') meeting minutes and an explanation of what a specific minute is about. The Commissioner's decision is that the council has correctly applied the vexatious provision at section 14 of the FOIA. He does not require any steps to be taken.

Request and response

2. On 14 March 2013, the complainant wrote to the council and requested information in the following terms:

"With reference to the latest Parish Council Meeting Minutes dated 6 December 2012 and currently on display in the Village Hall Noticeboard – it is noted that Minute 5.5 relates to our property. For that reason please can we be provided with a copy of the said Meeting Minutes in accordance with ICO requirements along with an explanation /details of what Minute 5.5 is all about."
3. Having received no response to this request, the complainant sent several emails chasing a response and requested an internal review on 8 May 2013.
4. The Commissioner understands that no response has been issued in relation to this particular request.

Scope of the case

5. The complainant contacted the Commissioner on 2 July 2013 to complain about the way his request for information had been handled.
6. As minute 5.5 relates to the complainant's property, it is likely to contain his personal data and as such, that part of the request should be considered as a subject access request under the Data Protection Act 1998 ('DPA'). Any of the complainant's personal data has therefore been dealt with in a separate DPA complaint (reference number RFA0506082) and is not considered in this decision notice.
7. In response to the Commissioners enquiries, the council has stated that it has taken the decision that the request was vexatious. Therefore the Commissioner has considered the application of section 14(1) of the FOIA to the request in this case.

Reasons for decision

8. Section 14(1) of FOIA states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious. There is no public interest test.
9. The term 'vexatious' is not defined in the legislation. In *Information Commissioner vs Devon County Council & Dransfield*¹, the Upper Tribunal took the view that the ordinary dictionary definition of the word vexatious is only of limited use, because the question of whether a request is vexatious ultimately depends upon the circumstances surrounding that request. The Tribunal concluded that 'vexatious' could be defined as the "...manifestly unjustified, inappropriate or improper use of a formal procedure" (paragraph 27). The decision clearly establishes that the concepts of 'proportionality' and 'justification' are central to any consideration of whether a request is vexatious.
10. In the Dransfield case, the Upper Tribunal also found it instructive to assess the question of whether a request is truly vexatious by considering four broad issues: (1) the burden imposed by the request (on the public and its staff); (2) the motive of the requester; (3) the value or serious purpose of the request; and (4) and harassment or distress of and to staff. The Upper Tribunal did, however, also caution

¹ UKUT 440 (AAC) (28 January 2013)

that these considerations were not meant to be exhaustive. Rather, it stressed the

“importance of adopting a holistic and broad approach to the determination of whether a request is vexatious or not, emphasising the attributes of manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious requests” (paragraph 45).

11. The Commissioner has therefore considered whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress in relation to the serious purpose and value of the request.
12. The Commissioner has identified a number of “indicators” which may be useful in identifying vexatious requests. These are set out in his published guidance on vexatious requests². The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of a case will need to be considered in reaching a judgement as to whether a request is vexatious.
13. In this case, the council has explained that the complainant has continually over many years corresponded with the council in his campaign for closure of a very long standing and well used public footpath that runs through his property. It said that the complainant has waged a very public campaign against the council as he feels aggrieved by the council’s refusal to support his wish to have the footpath closed. The council provided the Commissioner with a copy of a notice issued under the Highways Act 1980 detailing the fact that Staffordshire County Council has been involved in action against the complainant for illegally blocking access to the footpath. The council expressed its view that the complainant seeks to use the Information Commissioner’s Office to further his campaign against the council.
14. The council also explained that it had taken the decision that the complainant’s continued correspondence with the council over the issue of the footpath was vexatious and repeated and had informed the complainant of this decision by a letter dated 6 November 2012. The council provided the Commissioner with a copy of this letter.

² http://www.ico.org.uk/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx

15. In relation to this particular request, the council has said that the complainant is well aware of the procedure relating to minutes of meetings and would have known that they would be posted on the council notice board in the usual fashion. It also explained that a notice on that board informs the public that minutes can be inspected by appointment with the Clerk to the council, and gives contact details. Furthermore, the council said that the complainant had indeed seen the particular minutes requested, as the request was worded `...Parish Council Meeting Minutes dated 6 December 2012 and currently on display on the Village Hall Noticeboard...', and had in fact obtained an electronic copy by photographing the minutes before making the request. The Commissioner notes that the complainant sent him the photograph of the minutes displayed on the council notice board.
16. The council consider that it would have been disproportionate to have to deal with the complainants request for copies of the minutes since these were in any event available to him through the usual channels available to anyone else. It said that the value of the request to the complainant was low as he had seen the minutes and obtained an electronic copy (as detailed in the above paragraph). It explained that the complainant had previously made requests for copies of minutes and that, given the long standing history of the complainants antagonism towards the council, the repeated request for minutes arose out of not a genuine need or desire on the part of the complainant to have a copy of the minutes but simply out of a desire to behave in a vexatious fashion.
17. In relation to the second leg of his request, for an `explanation/details of what minute 5.5 is all about', the council said that no such documentation was or is available and therefore it would have been impossible to comply with that part of the request.
18. The council has explained that it is only a very small Parish Council with an annual precept of £1,450 and that it does not have its own computer or internet access and that the clerk works from home on a voluntary basis using personal equipment. It said that hand written minutes are subsequently typed up for display on the notice board and it would not be financially viable or sustainable to set up and operate a website or other electronic means of communication and publication.
19. The Commissioner has considered the amount of work involved in order to respond to the request and does not consider this to be onerous as the council could have photocopied the minutes and sent a hard copy to the complainant or attached the minutes to an email to send electronically via the Clerks personal equipment. However, given the fact that the complainant had seen the requested minutes and had a photograph of them, he considers that there was little, if any, serious purpose and value to the request. Furthermore, taking into account the

background of the complainant's campaign against the council, the Commissioner considers that further requests related to the issue, such as this request for minutes of a meeting held solely to deal with the correspondence from the complainant, could cause harassment and distress to staff. The Commissioner also considers that the request in this case appears to be a means of furthering the campaign against the council which is an inappropriate use of information rights under the FOIA. Taking into consideration the findings of the Upper Tribunal in Dransfield, that a holistic and broad approach should be taken in respect of section 14(1), the Commissioner has decided that the council was correct to find the request vexatious. Accordingly, the Commissioner finds that section 14(1) has been applied appropriately in this instance.

Right of appeal

20. 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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

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

21. 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.
22. 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

Andrew White
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