

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 October 2014

Public Authority: Blackpool Council

Address: Town Hall
Blackpool
FY1 1AD

Decision (including any steps ordered)

1. The complainant has made requests for information from Blackpool Council ("the council") about parked vehicles. The council refused the requests on the basis that they were vexatious under section 14(1) and repeated under section 14(2) of the Freedom of Information Act ("the FOIA").
2. The Commissioner's decision is that the council has correctly refused the requests as vexatious under section 14(1).
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 2 June 2013, the complainant wrote to the council and made the following requests within the body of his correspondence:

"At 12:11pm on Thursday 23.5.13 there was a Vauxhall saloon motor car, reg no. [redacted car registration number] parked on the footpath outside the Town Hall. This car was displaying a notice in the window stating 'This vehicle is authorised to park on the loading bay'. This is the first time I have seen this area described as the loading bay. In fact the loading bay at the time, on Market Street, was completely empty. Why was this vehicle parked there? Who authorised this?"

At the same time there was another vehicle parked on the footpath – a motorway maintenance vehicle with a piece of paper displayed in the window 'Working for Blackpool Council'. Both these vehicles were still in position at 2.15pm. Why was this vehicle there? And who authorised it to be there?

[...]

At 2pm on Thursday 30.5.13 I was driving along the Promenade when I saw 3 vans parked on the footpath outside the Town Hall. One had 'All Cool' printed on the side. Why were these vans parked there and who gave them permission?

On Friday 31.5.13 a van displaying 'All Cool' on the side was again parked on the footpath outside the Town Hall, this time the reg. no was [redacted car registration number]. This van was still there at 2.50pm. Why was this vehicle parked there and who gave the permission to park?

[...]

I would like to ask two further questions – according to you it is not an offence to park on the footpath – that being the case the case any member of the public can park on the footpath outside the Town Hall and 1) This is not a hypothetical question – what office would you report them for if members of the public commenced to park on the footpath outside the Town Hall? 2) Could you also confirm to me that you are an unelected member of the Council?"

5. The council responded on 17 June 2013 and refused the requests on the basis that they were vexatious under section 14(1) and repeated under section 14(2).

Scope of the case

6. The complainant contacted the Commissioner on 6 November 2013 to contest the council's response.
7. The Commissioner considers that the scope of this case is the determination of whether the council has correctly identified the requests as vexatious under section 14(1) and repeated under section 14(2).

Reasons for decision

Section 14(1) – vexatious requests

8. Section 14(1) of states that:

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

9. The Commissioner has recently published new guidance on vexatious requests and for ease of reference, this can be accessed here: http://www.ico.org.uk/news/blog/2013/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx
10. As discussed in the Commissioner's guidance, the relevant consideration is whether the request itself is vexatious, rather than the individual submitting it. Sometimes, it will be obvious when requests are vexatious, but sometimes it may not. In such cases, it should be considered whether the request would be likely to cause a disproportionate or unjustified level of disruption, irritation or distress to the public authority. This negative impact must then be considered against the purpose and public value of the request. A public authority can also consider the context of the request and the history of its relationship with the requester when this is relevant.

The interaction between the parties

11. The complainant began communication with the council through correspondence on 14 November 2012. This correspondence was composed of 26 requests that sought information about the town's promenade scheme, parking outside the Town Hall, parking on Talbot Square, and various road schemes and lane markings. The council subsequently issued a response on 11 December 2013 which either provided held information under the terms of the FOIA, or else created new information.
12. The complainant submitted further correspondence on 1 January 2013. This correspondence included 13 requests under the FOIA that sought information about the parking outside the Town Hall and Talbot Square. The council identified a further 13 information requests within the body of the complainants accompanying letter, which spanned 4 sides of A4 paper. The council subsequently issued a response on 29 January 2014 which either provided held information under the terms of the FOIA, or else created new information.

13. The complainant submitted further correspondence to the council on 2 June 2013, which the Commissioner interprets as containing 6 requests under the FOIA for information about parking outside the town hall and in the loading bay at council offices. The council refused these requests on the basis of section 14(1) and section 14(2).
14. Since this time the Commissioner understands that the complainant has submitted requests to the council that relate to other matters, and that the council has responded to these.

The complainant's position

15. The complainant has explained to the Commissioner that his communication with the council relates to a range of road safety issues that he is concerned about, as well as the public cost of measures that have been implemented.
16. Included within these concerns is the parking of various vehicles near the town hall, which the Commissioner understands was the subject of a public notice being published by the council on 3 May 2012. The complainant considers that such parking is obstructing a public right of way, and represents a danger to pedestrians.

The council's position

17. The council has explained to the Commissioner that it considers the complainant's requests are seeking information about the same subject matter as those previous, namely the parking of vehicles in the vicinity of the town hall. The council further considers that the complainant's correspondence represents a significant challenge to its officers in determining what is being sought under the FOIA, as the requests for information are merged with comments, arguments and statements.
18. The council has further referred the Commissioner to the nature of the information sought. The complainant has recorded the registration numbers of parked vehicles on specific dates, and has sought details about these vehicles from the council. While the council has acknowledged that it expects individuals to comment or make representations about the services that it is responsible for, particularly those relating to road and cycling schemes, it considers that the complainant's requests for information about specific vehicles are unlikely to have any public value. The council considers that the issues that the complainant's requests focus on have already been subject to public consultation, audit, or scrutiny, and that the sought information is either not held by the council, or that it could be accessed but would breach the contract that the council has with the DVLA.

The Commissioner's analysis

19. Firstly, the Commissioner would like to highlight that there are many different reasons why a request may be refused on vexatious grounds, as reflected in the Commissioner's guidance. There are no prescriptive "rules", although there are generally typical characteristics and circumstances that assist in making a judgement about whether a request is vexatious. A request does not necessarily have to be about the same issue as previous correspondence to be classed as vexatious, but equally, the request may be connected to others by a broad or narrow theme that relates them. A commonly identified feature of vexatious requests is that they can emanate from some sense of grievance or alleged wrong-doing on the part of the authority.
20. The Commissioner's guidance has emphasised that proportionality is the key consideration for a public authority when deciding whether to refuse a request as vexatious. The public authority must essentially consider whether the value of a request outweighs the impact that the request would have on the public authority's resources in providing it. Aspects that can be considered in relation to this include the purpose and value of the information requested, and the burden upon the public authority's resources.

The purpose and value of the request

21. Having reviewed the submissions of both parties, the Commissioner is aware that the complainant is particularly concerned about the parking of vehicles in the vicinity of the town hall, as well as the implementation of traffic schemes. The complainant's previous requests have sought a variety of information on these issues, including the parking of specific vehicles.
22. The complainant's requests of 2 June 2013 continues to seek information on these issues, and in particular, why specific vehicles have been parked near the town hall on specific dates, as well as what offences the vehicle owners may be committing.
23. Having considered the nature the information that is sought, the Commissioner considers that there is limited public value that can be perceived within the requests. The information that is sought about parked vehicles is either unlikely to be held, or if it is held, would be likely to engage exemptions within the FOIA, such as that for the personal data of third parties (section 40(2)). Additional to this, the Commissioner notes that the request for information about potential offences is a hypothetical question, rather than a valid information request as defined by section 9 of the FOIA.
24. Having considered that the basis of the complainant's requests is the legality of parking, the Commissioner recognises that any such matter

would need to be considered by either the police, or the council in its official capacity for enforcing parking regulations. While the Commissioner appreciates that the complainant may dispute the decisions and actions of those public authorities, he does not consider that the complainant's requests for information about specific vehicles are an appropriate way in which to dispute such matters. Consequently, the Commissioner must conclude that the information rights provided by the FOIA are being misused.

The burden upon the council

25. The Commissioner has been provided with copies of the associated correspondence and information requests by both parties.
26. Having considered the number of requests that the complainant has previously submitted to the council, the Commissioner has identified that significant public resources have already been expended in providing information to the complainant about the issue of parking near the town hall. This information has included both recorded information under the terms of the FOIA, and also newly created information in order to response to queries that have been submitted as 'requests'.
27. The Commissioner, having considered the council's responses to previous requests, understands that should the council respond to the latest request under the terms of the FOIA, it would be highly likely to issue a refusal notice confirming either that the information about vehicles and potential offences is either exempt, or else it is not held. As such, the Commissioner considers that such a response will hold limited public value, and as such does not justify the burden upon public resources.

Conclusion

28. While the Commissioner appreciates that the substantive matter remains important to the complaint, he has identified that the public value in the requests being responded to is limited. The information that is sought relates to specific vehicles and the legality of their parking, and as such the Commissioner considers it reasonable to conclude that any concerns about this would need to be referred to either the police or the council in its role of enforcing parking regulations.
29. Additional to this, the Commissioner has identified that the prior information requests that the complainant submitted in the preceding 8 months are likely to have already utilised a significant amount of public resources. Should the council respond to the complainant's request of 2 June 2013, it would be required to further divert resources away from its public duties. Having already considered the limited public value of

the request, the Commissioner does not consider that this diversion would be justified.

30. The Commissioner has therefore concluded that the council's refusal of the request on vexatious grounds was correct. On the basis that section 14(1) has been correctly applied to the request, the Commissioner has not needed to consider the application of section 14(2).

Right of appeal

31. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

32. 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.
33. 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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