

Freedom of Information Act 2000

Decision notice

Date: 2 September 2014

Public Authority: Stockport Metropolitan Borough Council

Address: Town Hall
Stockport
SK1 3XE

Decision (including any steps ordered)

1. The complainant requested information relating to health and safety measures at Vale View School in Stockport. The Commissioner's decision is that Stockport Metropolitan Borough Council (the Council) has correctly refused the request as vexatious under section 14 of the Freedom of Information Act 2000 (the Act). No further action is required.

Request and response

2. Following on from previous correspondence between the complainant and the Council, on 5 July 2013 the complainant wrote to the Council and requested information in the following terms:

"Valve [sic] View School Outstanding Issues

Polite reminder I have still not received a satisfactory answer from you ref

1. The external football pitch and changing rooms.

2. The Storage water tank under the football pitch

3. The Class 1 Petrol/Oil Separator next to Manhole #13 on the attached drawings.

4. The rainwater Harvesting Tank shown on the attached drawings.

5. These drawing do not indicate any GREASE TRAPS outside the Kitchen Area?

This drawing indicates the Playground run-off water will be drained into the existing Pond which cannot be correct.

I would be most grateful if you would now elevate these matters to your Immediate Line Manager. It should also be noted this attached drawing was sent to me as an AS BUILT DRAWING and you can clearly see it is NOT as As Built Drawing but is a PROPOSED drawings??!!"

3. The Council responded on 16 July 2013. It stated that the request was being refused as vexatious under section 14 of the Act. The Council also confirmed that it would not conduct an internal review of this decision. This is because the complainant had written to the Council about this school before, and the Council considered that it had made its position clear on this matter.

Scope of the case

4. The complainant provided the Commissioner with the documents necessary to accept an appeal in July 2013. However, an administrative error meant there was a delay in the Commissioner beginning his investigation.
5. The Commissioner considers the scope of the case to be whether the request can be refused as vexatious.

Reasons for decision

Definition of vexatious

6. Section 14 of the Act states that a public authority may refuse a request if it is considered vexatious. The Act does not contain a definition of the term, but this matter has been raised before the Upper Tribunal in the case of *Information Commissioner vs Devon County Council & Dransfield [2012] UKUT 440 (AAC)*. The judge in this case took the view that it could be defined as "...manifestly unjustified, inappropriate or improper use of a formal procedure."
7. The Commissioner will work within this definition, and base his decision upon whether the request whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. He will also consider the context the request was made in and determine whether this makes the request vexatious.
8. The complainant argued that the Commissioner should not rely on this definition or other parts of the Upper Tribunal decision, and pointed out that it is due to be brought before the Court of Appeal. The Commissioner disagrees, as decisions made by the Upper Tribunal are

binding on the Commissioner. The fact the Court of Appeal has allowed the case to be heard does not change this.

Complainant's arguments that the request is not vexatious

9. The complainant has argued to the Commissioner that the information is needed as the school's health and safety measures are threatening the lives of the children who attend. The Commissioner considers that if a request has a well-intentioned purpose that is in the public interest, and the protection of children's health and safety would be paramount in the public interest, then the request is less likely to be vexatious.

Council's arguments that the request is vexatious

10. The Council referred the Commissioner to a previous decision involving the complainant¹ where the Commissioner had found that the request was vexatious. The Council pointed out that the request for this previous decision was about the same school as this current decision, and therefore a number of the arguments remain valid. The Commissioner also notes that this decision was referred to the First-Tier Tribunal which dismissed the complainant's appeal.²
11. The Commissioner was wary that the Council might be trying to apply a blanket ban to the complainant's requests but the Council dismissed this. It provided the Commissioner with a list of complainant's requests since 2011. This showed that it has answered requests made by the complainant on other subjects, but since March 2013 it began refusing requests relating to health and safety measures at Vale View School.
12. The figures provided by the Council show that from 5 August 2011 – 5 July 2013 the complainant submitted 37 requests about Vale View School. The Council figures also show that 102 emails were sent relating to these 37 requests, but it argued that this was only directly relating to requests and that there was numerous other correspondence sent as well. The complainant has been in contact with a Council solicitor and sent further correspondence about health and safety measures at this school. The Council argued that it has already provided a significant

1

http://ico.org.uk/~media/documents/decisionnotices/2013/fs_50493287.aspx

2

[http://www.informationtribunal.gov.uk/DBFiles/Decision/i1248/Dransfield,%20Alan%20EA-2103-0237%20\(2.4.14\).pdf](http://www.informationtribunal.gov.uk/DBFiles/Decision/i1248/Dransfield,%20Alan%20EA-2103-0237%20(2.4.14).pdf)

amount of information to the complainant about the school and has spent a substantial amount of its time and effort in trying to respond to his concerns. It considers that the complainant's request of 5 July 2013 is a part of this extensive history of correspondence and requests and that this is becoming an unwarranted burden upon the Council's resources.

13. The Council also put forward that whilst the complainant is presenting concerns about health and safety measures, it is not aware that he has raised any of these concerns with the relevant investigatory bodies for further action. The Council stated that it would expect an individual with these concerns to raise them with the appropriate organisation, and not to spend two years making freedom of information requests and sending large numbers of emails to Council staff. The Commissioner has been provided with the wording of the complainant's requests and notes that the complainant uses some of them to make comments on the information provided and criticise what he sees as the Council's failings. In the Commissioner's view this amounts to an inappropriate use of a formal procedure. The Act grants individuals the right to request information from authority, but is not an appropriate method for commenting on perceived failings that would be better directed to the relevant health and safety or investigatory organisation.
14. From looking at the history of the requests it is evident that the complainant has often been provided with information only to return with further questions and requests about what he has been given. Whilst this is understandable and appropriate in some circumstances, there comes a point where this persistence is unjustified. The Council stated to the Commissioner that it considers a substantial amount of relevant information concerning the school has been provided, and the information it has given out only invites further requests and correspondence. This has carried on to the point where the Council argued that the requests now serve little purpose. Having reviewed the requests the complainant has made the Commissioner accepts this argument. He considers that the purpose of the request is diminished by both the fact that there are more appropriate bodies for the complainant's concerns, and that responses from the Council only bring forth more correspondence about the same subject.

Commissioner's decision

15. The Commissioner considers that the complainant does make requests because he is concerned for the health and well-being of children at Vale View School. However, it is evident that these concerns have been addressed by the Council and if the complainant feels more should be done it would be appropriate to contact the relevant investigatory bodies. Instead, the complainant is pursuing a campaign against the

Council, one where any response prompts further correspondence from the complainant and eventually further requests.

16. In addition to this, the complainant has also misused the rights granted to him under the Act to use requests to pass comments on the information he has been provided. The context of this request shows that there is a history of unwarranted burden upon the Council as well as an inappropriate use of the Act. Therefore, the Commissioner's decision is that the request is vexatious as per section 14 of the Act.

Right of appeal

17. 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: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

18. 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.
19. 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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SK9 5AF