

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice**

Date: 25 July 2016

Public Authority: Haringey Council
Address: River Park House
225 High Road
London
N22 8HQ

Decision (including any steps ordered)

1. The complainant has requested information from Haringey Council ("the Council") for confirmation as to whether a standard form was sent to all other motorists that appealed a traffic penalty charge notice from a specific camera in December 2015 and January 2016.
2. The Commissioner's decision is that the Council has correctly applied section 14 of the FOIA.
3. The Commissioner requires the Council to take no steps.

Request and response

4. On 21 March 2015 the complainant wrote to the Council and requested information in the following terms:

"I was sent the adjudicators standard form 'Your right to appeal against a moving traffic penalty charge'.

Do your records indicate if this standard form was sent to all other motorists when you rejected their appeal for this camera in Dec 2015, Jan 2016".

5. The Council responded on 18 April 2016. It explained that the request fell under the EIR and it was manifestly unreasonable in accordance with regulation 12(4)(b).

6. The complainant disputed the Council's application of regulation 12(4)(b) and subsequently asked for an internal review to be carried out.
7. The Council sent the outcome of its internal review on 18 May 2016. It maintained its previous decision.

Scope of the case

8. The complainant contacted the Commissioner on 18 May 2016 to complain about the way his request for information had been handled. The complainant argued that the information he requested should be provided.
9. During the Commissioner's investigation, the Council considered that it had incorrectly handled the request under the EIR. Instead it considered that the request fell under the FOIA and section 14 (vexatious requests) applied.
10. The Commissioner has had to consider whether the Council has correctly applied section 14 to refuse to comply with the request.

Reasons for decision

11. Section 14(1) 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.
12. The term "vexatious" is not defined in the FOIA. The Upper Tribunal (information Rights) considered in some detail the issue of vexatious requests in the case of the *Information Commissioner v Devon CC & Dransfield*¹. The Tribunal commented that vexatious could be defined as the "*manifestly unjustified, inappropriate or improper use of a formal procedure*". The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.
13. 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

¹ GIA/3037/2011

(on the public authority and its staff); (2) the motive of the requester; (3) the value or serious purpose of the request and (4) harassment or distress of and to staff.

14. The Upper Tribunal did however also caution 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).

15. In the Commissioner's view the key question for public authorities to consider when determining if a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
16. 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 requests.² 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.

The Council's position

17. The Council provided the Commissioner with some background to the request. It explained that in December 2015, the complainant received a parking ticket (PCN) for stopping on a bus stop. The complainant discussed the PCN with the Council's Parking Team in which he asked the Council to withdraw the fine. The Council explained that as the PCN had been correctly issued, the fine was not withdrawn and the complainant agreed to pay the fine and not appeal it to the Tribunal.
18. The Council explained to the Commissioner that following his decision to pay the fine, the complainant has persistently emailed Council staff about the PCN and in February and March 2016 he submitted seven FOI

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

requests, a Stage 1 complaint and a subsequently Stage 2 complaint in relation to the PCN.

19. The Stage 2 complaint found that the complainant had been sent the Moving Traffic appeal documents in error. The Council apologised for the error and explained that it was an isolated incident and not a wider problem within the Council's parking service.
20. The Council advised the Commissioner that the information requested was not readily available and the records held do not easily indicate which forms would have been sent. The Council explained that every relevant record would need to be checked and reviewed. The Council argued that this would be such an undertaking for staff, in time and effort and it would be disproportionate to the value of the request.
21. In its submissions, the Council argued that the complainant is asking for the information in relation to his own personal dispute with the Council. The Council explained that this dispute has already taken up an excessive amount of officer time, and spending further time researching the information that has been requested would cause irritation to officers as well as disrupting them from their normal duties. The Council explained that it has not received any other queries or complaints about the wrong form being sent to other motorists so it does not believe there is a wider issue.
22. To support its position that the request is vexatious, the Council referred the Commissioner to its internal review response to the complainant. In this response, the Council stated:

I consider that we have responded to your emails and your information requests constructively and sympathetically, however, a time has come for us to balance the impact of your extensive correspondence and information requests against their purpose and value as well as the effect these have had on Council's resources.

It can be argued that, these requests taken by themselves, were fairly innocuous, however when taken in the context and history of your PCN appeal and subsequent complaints I find that your information requests were burdensome, disproportionate, and of limited value given that you have paid the PCN.

I would therefore consider your requests can be classed as obsessive and, to some extent, designed to harass. It seems that you are still attempting to have your PCN cancelled when this has already been conclusively address by our Parking Team and through our complaints procedure.

The complainant's arguments

23. In his complaint to the Commissioner, the complainant argued:

"It is true that I have asked a number of foi's but it all stemmed from them sending me the wrong adjudicators letter. I think the wrong letter was sent to dozens of people and that is why they are so reluctant to answer this foi. I am sure you will agree that this info should be provided".

The Commissioner's view

24. In coming to a view, the Commissioner has considered all relevant arguments provided by the Council and the complainant.

25. The Commissioner considers that the purpose and value of the request does not outweigh the time and effort required by Council officers to comply with the request. In coming to this view, the Commissioner has acknowledged that the Council has informed the complainant that he was sent the wrong form in error; but has stated that it was an isolated incident rather than a wider problem within the parking service team.

26. In its submissions to the Commissioner, the Council confirmed that the complainant has paid the PCN. The Commissioner is aware that the complainant did have a right to appeal the PCN which he chose not to do. It therefore seems unreasonable for him to continue to contact the Council on this matter when the appropriate course of action for him if he disputed the PCN was to appeal it.

27. Although the complainant may have a legitimate reason for seeking the requested information, the Commissioner does not consider that complying with the request will bring this matter to an end.

28. The Commissioner is therefore satisfied that section 14 was correctly applied.

Right of appeal

29. 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

30. 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.
31. 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

Rachael Cragg
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF