

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 January 2023

Public Authority: Birmingham City Council
Address: Council House
Victoria Square
Birmingham B1 1BB

Decision

1. The complainant requested information relating to highway claims. Birmingham City Council (the "council") refused the request under section 14(1) (vexatious requests). The Commissioner's decision is that the council is entitled to rely on section 14(1) of the FOIA to refuse the request.

Request and response

2. On 4 October 2022 the complainant requested the following information from Birmingham City Council (the "council"):

"With regard to my FoIA responses concerning Kier Highways, where you have cited 'commercial interests' (s43) please provide the exchanges between Kier*, BHL* and BCC

I refer you to [redacted]

*Kier Highways & Birmingham Highways Ltd hold the information on your behalf

'The information was supplied by Birmingham Highways Ltd which engaged with its subcontractor Kier. The information provided is that provided in response to the request.' BCC response 27/04/2022 [redacted]"

3. The council refused the request, deeming it vexatious as provided by section 14(1) of the FOIA.

Reasons for decision

4. This reasoning covers whether the council is entitled to rely on section 14(1) of the FOIA to refuse to provide the requested information.

Section 14 – vexatious requests

5. Section 14(1) of FOIA provides that a public authority is not obliged to comply with a request for information if the request is vexatious.
6. The word "vexatious" is not defined in FOIA. However, as the Commissioner's guidance on section 14(1)¹ explains, it is established that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress¹.
7. In this case the council directed the complainant to a response it had issued to them in relation a previous request. This response explained

¹ <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/dealing-with-vexatious-requests-section-14/>

that the complainant had submitted a number of requests for information that is directly or indirectly related to Kier Highways Limited acting on behalf of the council in respect of highway claims.

8. The council has argued that the requests, both in themselves and in the context of the complainant's earlier requests, contain very serious unsubstantiated allegations, argue points rather than ask for new information and that they are also of little, if any, public interest; repetitive, obsessive and oppressive.
9. In [Betts vs ICO, \(EA/2007/0109 19 May 2008\)](#) the Tribunal considered an application of section 14(1) in relation to a range of requests submitted by a complainant in relation to a specific subject matter. The Tribunal found that there was nothing vexatious in the content of the request itself. However, there had been a dispute between the council and the requester which had resulted in ongoing FOIA requests and persistent correspondence over two years. These continued despite the council's disclosures and explanations.
10. The Tribunal considered that, although the latest request was not vexatious in isolation, it was vexatious when viewed in context. The Tribunal found that the request was a continuation of a pattern of behaviour and part of an ongoing campaign to pressure the council. The request on its own may have been simple, but experience showed it was very likely to lead to further correspondence, requests and complaints. The Tribunal found that, given the wider context and history, the request was harassing, likely to impose a significant burden, and obsessive.
11. The Commissioner recognises that there may be situations where it is appropriate for a requester to submit multiple requests to an authority for information on the same matter. For example, it might be necessary to take such an approach where an authority has shown a relative lack of transparency in relation to matters that are of significant public interest.
12. In this case the council has suggested that the complainant makes a living as a loss adjuster for a claims management firm and that the information is sought in pursuance of commercial or private interests.
13. The Commissioner recognises that the FOIA is applicant-blind and that the identify of a requester should not normally be a consideration when deciding how to respond to a request. However, he accepts that the identity of a requester can be relevant in cases where a request identifies the applicant's own personal data or where the relevance of section 14 of the FOIA is being considered.

14. In this case, regardless of the identity of the requester, the Commissioner considers that the request subject matter is of limited interest to the broader public and that expecting the council to continue to field enquiries about it places a disproportionate burden on public resources. Moreover, if there are concerns about the council's conduct in relation to civil or other claims, there are existing legal remedies for pursuing these. The Commissioner does not consider that the FOIA is the appropriate mechanism for furthering grievances of this nature.
15. Having considered the relevant evidence, the Commissioner is satisfied that responding to the request would be likely to lead to further correspondence, requests and complaints. Given the wider context and history, the Commissioner considers that the request is, therefore, obsessive and likely to impose a significant and unwarranted burden on the council.
16. The Commissioner's decision is that request is vexatious. Therefore, the council is entitled to rely on section 14(1) of the FOIA to refuse to comply with the request.
17. The Commissioner requires no further action to be taken by the council in relation to the request.

Right of appeal

18. 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@justice.gov.uk

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

19. 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.
20. 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

Christopher Williams
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
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