

My ref: FOI 5678
Your ref:

Date: 6 October 2015

Contact: Dan Horrex – Corporate Information Manager

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Customer Service and Transformation
Corporate Director, Sue Grace

Mr Victor Allen

By email:
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Information Governance Team
SH1001
Cambridgeshire County Council
Shire Hall
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Dear Mr Allen

Re: Internal review of request reference 5678

Further to your email of 11 September 2015, I have completed my review of the handling of your request; please find below the results of that investigation. I shall deal individually with the technical handling of your request and with each of the points you have raised in your email. Where reference is made to specific sections of legislation, you can find them appended to this letter for ease of reference.

1, Technical handling

On 31 August 2015, you submitted the following request for access to information:

"Mr Ingle has a complaint with you going back for years. How much in time, resources and staff costs has it taken to deal with him. In about 2007, there was a High Court case about him. What was the Council's bill of costs. How much has been recovered from him. If not 100% why not."

The Council responded on 7 September, refusing your request under section 14(1) – on the grounds that it was considered to be vexatious.

Your request was dealt with under the Freedom of information Act 2000 (the Act) which, under section 1(1), permits access upon request, to information that may be



held by a public authority unless one of the exemptions may apply or where the request is considered to be vexatious or repeated.

Section 10(1) of the Act provides that a public authority must provide a response to a valid request within twenty working days of its receipt.

In this instance, the Council responded to you on day five; I am therefore satisfied that the Council has fulfilled its obligations under section 10(1).

Section 14(1) – vexatious requests

Section 14(1) of the Act provides that where a request is deemed to be vexatious, a public authority is not obliged to comply with its duties under section 1(1) of the Act.

Guidance from the Information Commissioner (ICO) states that a request will be vexatious where it is likely to cause a disproportionate or unjustifiable level of distress, disruption or irritation. A public authority may take into account the context and history of a request when deciding whether to consider it vexatious.

Furthermore, the Information Tribunal has concluded that “vexatious” can be defined as the manifestly unjustified, inappropriate or improper use of a formal procedure.

The ICO recognises that where a public authority has reason to believe that several different requestors are acting in concert, it may take this into account when determining whether a request is vexatious; as well as where it holds evidence that an individual requestor is using means to try and circumvent the provisions of the legitimate FOI process, for example by submitting requests under an alternative name.

With consideration to the above guidance from the ICO and relevant decisions by both his office and the Tribunal, I am satisfied that the provisions of section 14(1) have been correctly applied to this request.

Section 40(2) – personal information

Were information of this nature held by the Council then, discounting the use of section 14(1) as explained above, it would be exempt from disclosure under section 40(2) of the Act.

Section 40(2) provides that where requested information constitutes personal data for the purposes of the Data Protection ACT 1998 (DPA), it is exempt from disclosure under the Act where release would breach one of the eight data protection principles.

Information that may be held in relation to any contact between the Council and a private individual will be personal information for the purposes of the DPA as it will

allow a specific person to be identified. Releasing this information into the public domain, would breach the first, second and seventh data protection principles.

*2. I believe that Mr Ingle is a pain in your b***side but until you can establish a close connection with him you are not entitled to refuse my request.*

The ICO recognises that where a public authority *has reason to believe (our emphasis)* that several different requestors are acting in concert, it may take this into account when determining whether a request is vexatious; as well as *where it holds evidence (our emphasis)* that an individual requestor is using means to try and circumvent the provisions of the legitimate FOI process, for example by submitting requests under an alternative name.

With consideration to the above guidance from the ICO and relevant decisions by both him and the Tribunal, I am satisfied that the provisions of section 14(1) have been correctly applied to this request.

3. I may be a close friend or I may be an ex work colleague who thinks he is being shafted or I may be a Member of the Taxpayers Alliance or even an investigative journalist. To refuse this application and future ones on such flimsy reasons smacks of the Russian State. The Public have a right to know the information that I want.

Please see the explanations above with regard to the use of section 14(1) in relation to vexatious requests.

With consideration to all of the above, I am satisfied that the Council has fulfilled its obligations under the Act and is correct in its reliance on s14(1) in its determination that your request is vexatious.

Therefore, I uphold the Council's original response and no further action will be taken in respect of this complaint.

My review is now concluded; if you continue to be dissatisfied with decision of this complaints process, you may apply directly to the Information Commissioner (ICO) for a decision. The ICO can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF. Please be assured that the Council will co-operate in full with any investigation from the ICO.

Yours sincerely,

Dan Horrex
Corporate Information Manager

Appendix 1 – relevant legislation

Freedom of Information Act 2000

1 General right of access to information held by public authorities..

- (1) Any person making a request for information to a public authority is entitled— .
- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and .
 - (b) if that is the case, to have that information communicated to him.

10 Time for compliance with request.

- (1) Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.

14 Vexatious or repeated requests..

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

17 Refusal of request.

- (5) A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.

Data Protection Act 1998

1 Basic interpretative provisions..

- (1) In this Act, unless the context otherwise requires— .

“personal data” means data which relate to a living individual who can be identified—

- (a) from those data, or
- (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller,

and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual;

SCHEDULE 1 The data protection principles

Part I The principles

1Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—.

(a)at least one of the conditions in Schedule 2 is met, and.

(b)in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met..

2Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes..

3Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed..

4Personal data shall be accurate and, where necessary, kept up to date..

5Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes..

6Personal data shall be processed in accordance with the rights of data subjects under this Act..

7Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data..

8Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.