

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: **18 September 2023**

Public Authority: **Seascale Parish Council**

Address: clerkseascalepc@gmail.com

Decision (including any steps ordered)

1. The complainant has requested information from Seascale Parish Council ("the Council") regarding payments to and from the Council, along with what any monies have been spent on. The Council refused to provide the requested information, citing section 14(1) of FOIA – vexatious or repeated requests.
2. The Commissioner's decision is that the Council was entitled to rely on section 14(1) of FOIA to refuse the request.
3. The Commissioner does not require the Council to take any steps as a result of this decision notice.

Request and response

4. On 21 May 2023, the complainant wrote to the Council and requested information in the following terms:

"Please could you provide me with:

1. A consolidated, yearly, dated itemised list of payments to Seascale Parish Council received from Morgan Sindall as a result of the licenced agreements and renewals in relation to the Seascale foreshore car park from the commencement date of the agreements to the end of the agreements and final payment. This will also include payments listed as subscriptions, donations, lease and also listed in SPC accounts under DVA

2. A consolidated, yearly, dated list of payments to Seascale Parish Council received from the Sellafeld Ltd, Licence to Occupy agreements in relation to the Seascale foreshore car park from the first commencement date of the agreements, including renewals to the last present payment. This will also include payments listed as subscriptions, donations, lease and also listed in SPC accounts under DVA.
3. What is the gross amount of payments received by Seascale Parish Council from Morgan Sindall and Sellafeld Ltd as a result of the licenced agreements and renewals mentioned above for the Seascale foreshore car park. This includes the amounts in all bank accounts where the money has been saved and listed as subscriptions, donations, lease and also listed as DVA in SPC accounts ?
4. A yearly consolidated, itemised list of the amount of money Seascale Parish Council has spent or used from the said licenced agreements from all bank accounts where the money is saved.
5. A yearly consolidated, itemised list on what the money from the said licenced agreements have been spent on from all bank accounts where the money is saved."
5. The Council responded on 2 June 2023. It stated that there is no soft copy data going back 8 years. It also cited section 12 of FOIA – cost of compliance exceeds the appropriate amount and section 14 of FOIA – vexatious and repeated requests.
6. Following an internal review the Council wrote to the complainant on 7 June 2023. It stated that for point 1 of the request section 12 was applicable; for point 2 of the request it explained that it was not required to supply the data in the specific format requested; for point 3 of the request it advised the complainant that if they wanted it to provide the information with its limited resources, they would need to consult with the Fees Regulation; for point 4 of the request, the Council applied section 12 of FOIA and for point 5, it applied section 14 of FOIA.

Scope of the case

7. The complainant contacted the Commissioner on 6 July 2023 to complain about the way their request for information had been handled.
8. During the course of the Commissioner's investigation, he asked the Council to decide if it was relying on section 12 of FOIA, or section 14 of

FOIA, as public authorities may not rely on both. The Council advised that it was relying on section 14(1) of FOIA.

9. The Commissioner considers that the scope of this investigation is to determine whether the Council was entitled to rely on section 14(1) to refuse the request.

Reasons for decision

Section 14 – vexatious or repeated requests

10. This reasoning covers whether the public authority is correct to apply section 14(1) of FOIA to refuse the request. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.¹
11. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s updated guidance on section 14(1)² states, 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 distress.
12. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
13. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
14. The emphasis on protecting public authorities’ resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) (“Dransfield”)³. Although the case was subsequently appealed to the Court of Appeal, the UT’s general guidance was supported, and established the Commissioner’s approach.

¹ [Freedom of Information Act 2000 \(legislation.gov.uk\)](https://legislation.gov.uk)

² [Dealing with vexatious requests \(section 14\) | ICO](#)

³ [Social Security & Child Support Commissioners \(tribunals.gov.uk\)](https://tribunals.gov.uk)

15. Dransfield established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
16. The four broad themes considered by the Upper Tribunal in Dransfield were:
 - the burden (on the public authority and its staff);
 - the motive (of the requester);
 - the value or serious purpose (of the request); and
 - any harassment or distress (of and to staff).
17. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. They stated:

“all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA” (paragraph 82).

The complainant's position

18. The complainant does not consider their request to be vexatious. In their complaint to the Commissioner, they have explained that the Council has received income from licenced agreements with two third parties to lease a section of a public car park since 2015, which the public pay for through precept. They say that the Council has not been transparent with the public in their contracts and refused/delayed publication of the contracts for public scrutiny.
19. The complainant explained that they do not have access to accurate accounts and as it is public money, the public should be able to see how much and what it is being spent on. The complainant also explained that they believe the Council are being deliberately obstructive and are using the vexatious exemption as an excuse to not be accountable.

The Council's position

20. The Council considers the request to be vexatious. In its submissions to the Commissioner, the Council has explained that the complainant has access to the requested information and says that their emails also evidence that they have used the information in complaints to external bodies. The Council added that the complainant makes requests/complains about the same or variations of the same issues.
21. The Council also advised that when explanations are provided to the complainant, they are not accepted and result in further questions.

Additionally, the Council says it has been receiving multiple requests/complaints in emails and monthly meetings for multiple years.

22. The Council has explained that there are two persons acting in pursuance of a campaign. It explained that this is evidenced in information in emails, not only to the Council but to external parties as well.
23. The Council has advised that the emails/requests from the complainant have taken up many hours of the Council's time. It added that it is a small council and that the Councillors are not paid for their roles. Additionally, the Clerk only works 5 hours per week. The Council added that whilst this is sufficient for the work required, including the occasional FOI request, it does not cover for continuous requests/complaints via emails or within the monthly Council meetings.

The Commissioner's position

24. In considering this case, the Commissioner has taken account of the Council's and complainant's submissions, along with his own guidance.
25. From the evidence provided, the Commissioner notes that the complainant has sent a very large volume of correspondence to the Council. He notes that between the end of January 2023 and the start of July 2023, 20 emails were sent to the Council on the same or similar topics. He also notes that some correspondence goes back to as early as 2016.
26. The Council has also demonstrated to the Commissioner that another member of the public is sending in similar requests/emails, which are also high in frequency. The Commissioner considers from the evidence provided that they are working in concert with each other.
27. The Commissioner acknowledges the complainant's concerns, and that individually the requests may not impose a significant burden on the Council. However, due to the frequency and volume of the requests, the Commissioner finds that they are placing a significant burden on the Council. The Council is a small public authority, with limited resources and, therefore, the requests from both the complainant and the other member of the public, are creating a significant burden.
28. Furthermore, whilst the complainant may have had a genuine issue when they began contacting the Council, the Commissioner considers that the complainant has pursued that issue well beyond the point of reasonableness. He therefore considers that it is unlikely that compliance with the request in question would resolve the complainant's concerns. On the contrary, he believes it would likely result in further

correspondence and information requests from the complainant. This would place a further burden on the Council and its limited resources.

29. Therefore, the Commissioner's decision is that the request is vexatious and, thus, the Council is entitled to rely on section 14(1) of the FOIA to refuse to comply with the request.

Right of appeal

30. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

31. 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.
32. 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

Michael Lea
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