

Freedom of Information Act 2000

Decision notice

Date: 6 March 2013

Public Authority: London Borough of Barnet
Address: North London Business Park
Oakleigh Road South
London
N11 1NP

Decision (including any steps ordered)

1. The complainant has requested information about money taken from his deceased wife's bank account. He has also asked for information about supposed allegations made against him.
2. The Commissioner's decision is that the London Borough of Barnet (the Council) has correctly refused the request on the grounds that it is vexatious. No further action is required.

Request and response

3. On 13 June 2012, the complainant wrote to the Council and requested information in the following terms:

"Can you confirm how much money did you take from [complainant's deceased wife]'s account and why (via [name of individual working as solicitor for complainant's deceased wife's receiver], Court of Protection) during those years you had falsely accused me of financial abuse against [complainant's deceased wife]? You have perpetrated SLANDER against me. Unless you clarify the above issues and the false accusation of Rape and Violence (criminal offence, defamation of character) against me, you may find yourself in Court again."

4. The Council responded on 20 July 2012. It stated that the request was being refused under section 14 of the Freedom of Information Act (the Act) on the grounds that it was vexatious.

5. Following an internal review the Council wrote to the complainant on 21 August 2012. It stated that the original decision was being upheld.

Scope of the case

6. The complainant contacted the Commissioner on 24 August 2012 to complain about the way his request for information had been handled.
7. The Commissioner considers the scope of the case to be whether the Council was entitled to refuse the request under section 14 of the Act.

Reasons for decision

8. Section 14 of the Act states that:

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

9. The Commissioner has well established guidance on vexatious requests¹. His approach is generally to consider the argument and evidence that the public authority is able to provide in response to the following questions.
 - Does the request lack any serious purpose or value?
 - Could the request fairly be seen as obsessive?
 - Is the request harassing the authority or causing distress to staff?
 - Would complying with the request impose a significant burden in terms of expense and distraction?
 - Is the request designed to cause disruption or annoyance?
10. It was made clear in the Upper Tribunal ruling in *Information Commissioner v Devon CC and Dransfield*,² that a decision on whether a

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http://www.ico.gov.uk/for_organisations/freedom_of_information/guide/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/vexatious_and_repeated_requests.ashx

² <http://www.osscsc.gov.uk/judgmentfiles/j3680/GIA%203037%202011-01.doc> page 11, paragraph 42

request is vexatious depends on the circumstances in which it was made. Thus, the Commissioner will also consider the context and history between the two parties at the time of the request to support his decision.

Background to case

11. There is a long history between the two parties involved in this case which revolves around the treatment of the complainant's wife, who died on 7 December 2008. Further detail of this can be found in the transcript of the High Court case between these two parties.³
12. In March 2002, the complainant's wife (RB) was placed into a care home against the complainant's wishes. In August that year the Council began proceedings against the complainant, on the basis that it had a statement from a social worker expressing that "*there were...concerns about alleged sexual abuse*"⁴. The Council later dropped these insinuations as there was insufficient forensic evidence.
13. During this time the complainant was temporarily enjoined from acting under the power of attorney on RB's behalf. A receiver was appointed by the Court for RB, who had power to pay the fees for RB's care.
14. The case was heard before 11 judges at the High Court, by which three judgments were issued in 2010 (after RB's death). The judgments found that it was right for RB to have been placed in a care home and not to have been looked after by the complainant. The judge found that the complainant had no grounds for a retrial, and the case did not meet the criteria for a referral to the Court of Appeal.
15. This dispute was also brought before the Lands Tribunal. The complainant argued that the charges raised for RB's care were unlawful because RB had been taken into care against her will and the accommodation provided was not sufficient to meet the criteria under the Health and Social Services and Social Security Adjudications Act 1983. The Adjudicator's decision was that he agreed with the judgment from the High Court and that the charge from the Council was valid.

³ <http://www.bailii.org/ew/cases/EWHC/Fam/2010/2423.html>

⁴ Ibid paragraph 3

Does the request lack any serious purpose or value?

16. Having considered the context in which this request was made and the background between the two parties the Commissioner is satisfied that the request lacks serious purpose. The request relates to his long-running dispute with the Council that has been dealt with in the High Court and the Lands Tribunal; both of which have been concluded and cannot be subject to any further appeal. As an example of this the Commissioner refers to paragraph 131 of the High Court judgment, where the judge stated:

"[T]here is absolutely no warrant for [the complainant's] allegation that the local authority was (or is) acting fraudulently in making its claim. Whether it succeeds or fails, there is nothing to show or even to suggest that the local authority was (or is) acting otherwise than properly and in good faith in pursuing the claim."

17. The Commissioner considers that the complainant has included a number of different issues which are entirely irrelevant to a request for information. The request contains references to issues contested in the concluded legal proceedings. It also contains a warning that non-compliance with the request will result in further legal proceedings.

18. As part of his submissions the Commissioner the complainant submitted an email he had received from the individual named in the request who worked on behalf of RB's receiver. This email shows that the individual revealed how much money was paid to the Council on behalf of RB. Hence the reason why the complainant writes in his request "Can you confirm how much money...". The Commissioner considers that this reduces the value of the request. The purpose of the Act is to obtain information of public value that has not previously been disclosed. Given that the complainant is already in receipt of this information it diminishes how much value can be seen in the request.

19. Having weighed up the relevant factors, the Commissioner is of the view that this request can be viewed as lacking value to the point where it is vexatious.

Summary

20. The Commissioner did investigate the other considerations from his guidance, which added further weight to the argument that the request could be refused as vexatious. However, he considers that the points put forward illustrating the lack of value in the request are sufficient to permit the Council to refuse the request on the grounds that it is vexatious.
21. Based on the context in which the request was made it is apparent that it relates to the complainant's grievance against the Council. This grievance is the subject of concluded legal proceedings and so is seen to lack value. Further, the complainant is already in receipt of the information, so the purpose of the request is only to have the Council confirm the figure. In the Commissioner's view this shows the request is of personal and not public interest and so lacks a serious purpose. Therefore, the Commissioner's decision is that this request is vexatious.

Other Matters

22. The Council has breached section 10 of the Act as its refusal notice of 20 July 2012 was sent after the 20 working day statutory time period.

Right of appeal

23. 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: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

24. 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.
25. 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

Jon Manners
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Wycliffe House
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