

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 30 January 2018

**Public Authority:** Isle of Wight Council  
**Address:** County Hall  
High Street  
Newport  
Isle of Wight  
PO30 1UD

#### **Decision (including any steps ordered)**

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1. The complainant has requested information about Penalty Charge Notices ("PCNs") issued for a specific road. Isle of Wight Council ("the Council") refused to comply with the request under section 14(1) of the Freedom of Information Act ("the FOIA").
2. The Commissioner's decision is that the Council has correctly applied section 14(1).
3. The Commissioner does not require the public authority to take any steps.

#### **Request and response**

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4. On 31 March 2016, the complainant wrote to the Council and requested information in the following terms:

*Please could I now request the list of reasons, grouped by month {covering all months for which data has been supplied} (with no personally identifying information) for each of the PCN cancellations in Denmark Road, where the original code was 'in residents only space, without permit'.*

5. The Council responded on 29 April 2016. It refused to comply with the request under section 14(1).
6. On 15 December 2016, the complainant asked the Council to undertake an internal review.
7. Following an internal review the Council wrote to the complainant on 19 January 2017. It maintained its original position.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 12 April 2017 to complain about the way his request for information had been handled, and specifically that the Council was incorrect to apply section 14(1).
9. The Commissioner considers the scope of the case to be the determination of whether the Council has correctly applied section 14(1).

### **Reasons for decision**

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#### **Section 14(1) – Vexatious requests**

10. Section 14(1) of the FOIA states that:

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

11. The Commissioner has published guidance on vexatious requests<sup>1</sup>. As discussed in the Commissioner's guidance, the relevant consideration is whether the request itself is vexatious, rather than the individual submitting it. Sometimes, it will be obvious when requests are vexatious, but sometimes it may not. In such cases, it should be

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<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

considered whether the request would be likely to cause a disproportionate or unjustified level of disruption, irritation or distress to the public authority. This negative impact must then be considered against the purpose and public value of the request. A public authority can also consider the context of the request and the history of its relationship with the requestor when this is relevant.

### The complainant's position

12. The complainant has previously been subject to a PCN, and contests that this was caused by unclear and inconsistent signage in respect of two parking places that were recently re-designated to 'residents only'.
13. In order to submit the matter to the Local Government Ombudsman ("the LGO"), the complainant has previously requested, and gained, information about PCNs issued for Denmark Road. From this information the complainant has concluded that the number of PCNs increased substantially after the re-designation of the two parking places. As such, the complainant considers that the parking places are not clearly marked, and that the Council has failed to comply with the terms of the Traffic Signs Regulations and General Directions 2002.

### The Council's position

14. The Council has informed the Commissioner that the original PCN against the complainant was issued in June 2014. Following a complaint, the matter was considered by the Council at Stage 1 and Stage 2 of its complaints process, and the Council advised the complainant in 2015 that he would need to submit the matter to the LGO should he remain dissatisfied. However, to date the complainant has chosen not to do this.
15. Since the date of the original PCN, the complainant has submitted six information requests relating to PCNs in Denmark Road (of which copies have been provided to the Commissioner). The Council considers that these requests and associated correspondence are clearly related to the ongoing dispute about the complainant's PCN, and, notwithstanding the civil nature of the correspondence, have now reached a stage where they can be deemed as excessive and illustrative of 'unreasonable persistence'.
16. The Council considers that compliance with the latest request would divert officers from their duties, and does not consider there to be sufficient public interest to justify this. The Council maintains that the signage is in accordance with the relevant legislation, and that the complainant holds the right to refer the matter to the LGO.

### The Commissioner's analysis

17. Firstly, the Commissioner would like to highlight that there are many different reasons why a request may be vexatious, as reflected in the Commissioner's guidance. There are no prescriptive 'rules', although there are generally typical characteristics and circumstances that assist in making a judgement about whether a request is vexatious. A request does not necessarily have to be about the same issue as previous correspondence to be classed as vexatious, but equally, the request may be connected to others by a broad or narrow theme that relates them. A commonly identified feature of vexatious requests is that they can emanate from some sense of grievance or alleged wrong-doing on the part of the authority.
18. The Commissioner's guidance has emphasised that proportionality is the key consideration for a public authority when deciding whether to refuse a request as vexatious. The public authority must essentially consider whether the value of a request outweighs the impact that the request would have on the public authority's resources in responding to it. Aspects that can be considered in relation to this include the purpose and value of the information requested, and the burden upon the public authority's resources.

*The purpose and value of the request*

19. The Commissioner has reviewed the circumstances of the request, and recognises that the complainant holds concerns about the validity of the new signage installed by the Council, and has sought to support his position by requesting various information about PCNs issued on Denmark Road.
20. However, the Commissioner is aware that the complainant's concerns have been considered by the Council at both stages of its complaints process, and that the complainant has been clearly informed that any further appeal against the Council's position would need to be referred to the LGO.

*The burden upon the Council*

21. The Commissioner understands that six previous requests have been made by the complainant for information relating to PCNs on Denmark Road. Four of these requests were submitted in 2014 (8 June, 1 July, 19 September, and 19 September), whilst a further two were submitted in 2015 (27 February, and 2 November).
22. It is reasonable for the Commissioner to consider that significant public resources have been applied to responding to these previous requests,

and that compliance with the latest request would, of necessity, consume further public resources.

*Conclusion*

23. Whilst the Commissioner recognises that the complainant remains concerned about the validity of the signage, any determination of that aspect falls outside the Commissioner's role. However, it is understood that the complainant has the right to refer the matter to the LGO for independent review.
24. Whilst the complainant has previously indicated to the Council that the requests have been made in order to support such a referral to the LGO, the Commissioner is aware that over two years have elapsed since the original PCN was issued, and that the complainant has not yet taken steps to do this. Viewed in this context, the Commissioner considers that the Council's interpretation of the request as 'unreasonable persistence' is reasonable, and that compliance with the request seems unlikely to progress the substantive matter in a meaningful way. The Commissioner must also consider that compliance with the request would consume finite public resources, and impact upon the Council's ability to manage other information requests by the public.
25. Having considered the above factors, the Commissioner has concluded that section 14(1) has been correctly applied.

## Right of appeal

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26. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

27. 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.
28. 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 .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**