

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 5 January 2017

**Public Authority:** Worcester City Council  
**Address:** Guildhall  
Worcester  
Worcestershire WR1 2EY

#### Decision (including any steps ordered)

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1. The complainant has requested information about the Managing Director of Worcester City Council ('the Council'). The Council says it does not hold the information.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold the requested information and has met its obligations under section 1(1) of the FOIA.
3. The Commissioner does not require the Council to take any steps.

#### Request and response

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4. On 15 January 2016, the complainant wrote to the Council and requested information in the following terms:

*"I am aware that all Councillors, senior staff and the local MPs have received an e-mail setting out serious allegations against the Managing Director of the City Council.*

*These allegations, if correct, would clearly make her entirely unsuitable for her role in heading up the Council. Presumably, she will have been very anxious to rebut the allegations. Similarly, I presume that the Council will have been equally anxious to be seen to have taken all*

*reasonable steps to investigate the matter so that it would be able to satisfy the people of Worcester that there is no truth in the allegations.*

*1 What statements has the Managing Director made to refute these allegations?*

*2 What steps has the Council taken to investigate the matter?*

*3 In what manner has the Council informed Councillors and staff of the Managing Director's response to the allegations?"*

5. The Council responded on 12 February 2016. It refused to comply with the request which it said was vexatious under section 14(1) of the FOIA. The Council maintained this position in its internal review dated 3 March 2016.
6. During the Commissioner's investigation, on 17 August 2016, the Council amended its position. It told the Commissioner that it does not hold the information the complainant has requested and communicated this revised position to the complainant on 16 September 2016.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 20 April 2016 to complain about the way his request for information had been handled.
8. The Commissioner's investigation has focussed on whether, on the balance of probabilities, the Council holds the information that has been requested.

### **Reasons for decision**

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9. Section 1(1) of the FOIA says that anyone who requests information from a public authority is entitled to be told by the authority (a) whether it holds the information and (b) if it does, to have the information communicated to him or her.
10. In its submission to the Commissioner, the Council has provided a background to the request.
11. The Council has told the Commissioner that between Christmas and New Year 2015-16, all senior council officers and elected members at Worcester City Council received unsolicited emails from the complainant. The emails contained unsubstantiated allegations against the Council's recently appointed Managing Director regarding her time as Chief

Executive at Knowsley Council. The Council says that, in essence, the emails made unsubstantiated allegations that the Managing Director was corrupt.

12. The Council has told the Commissioner that it is aware that the complainant carried out a prolonged campaign against the Managing Director during her tenure at Knowsley Council. The allegations the complainant made were fully investigated and there were no findings of fault on the part of the Managing Director. The Council is also aware that due to the complainant's persistent campaign against the Managing Director, Knowsley Council classified him as 'vexatious'.
13. The Council had written to the complainant advising him that the matters he raised related to historical matters at Knowsley Council and that the Council has no jurisdiction to investigate those matters.
14. It was against this background that the Council says it received the current information request from the complainant. The Council has explained that it initially categorised the request as vexatious under section 14(1) of the FOIA on the grounds that the complainant appeared to be conducting a single-handed campaign against the Council's Managing Director.
15. It appeared to the Council that the complainant had adopted a 'scatter-gun' approach to his correspondence, with emails to senior council officers and all members of the Council. The Council considers that the complainant has been unreasonably persistent in his approaches to the Council, despite being advised that the allegations were not within the jurisdiction of Worcester City Council as they related to historical matters at Knowsley Council.
16. During the Commissioner's investigation it had nonetheless reconsidered the complainant's request. It complied with the request and communicated to the complainant that it does not hold the information requested in any of the three parts of the request.
17. The Council has confirmed to the Commissioner that it does not hold the requested information as it relates to matters outside the jurisdiction of Worcester City Council. The Council also confirmed that it has neither destroyed nor deleted any information that falls within the scope of the request.
18. The Council has explained that on receipt of the original email correspondence from the complainant, Council employees and elected members were advised not to respond to it directly, and that the Council's Monitoring Officer would manage all correspondence from the complainant. The Council says this is its usual approach to dealing with

a scatter-gun approach from vexatious complainants. For this reason, the Council says it is satisfied that it does not hold any information which relates to the questions that have been asked.

19. The Council has told the Commissioner that it has no jurisdiction to investigate a matter relating to historical matters at Knowsley Council and that it had explained this to the complainant in writing. The Council has confirmed that it would never have been in a position that it would have held any information that would address the complainant's request.
20. The Commissioner has considered all the circumstances of this complaint. She notes that the Council does not appear to have carried out any searches for any related information and assumes that this is because, as the Council has explained, its staff were told not to respond to the complainant's initial email and, consequently, it is satisfied that it does not hold any information within the scope of the request. Given the background to the request, the Council's submission and the nature of the information requested, the Commissioner is prepared to accept that, on the balance of probabilities, the Council does not hold the information that has been requested.

## Right of appeal

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21. 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)

22. 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.
23. 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** .....

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