

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

### Decision notice

**Date:** 10 August 2017

**Public Authority:** Kirby Muxloe Parish Council  
**Address:** Parish Council Office  
Station Road  
Kirby Muxloe  
Leicester  
LE9 2EN

#### Decision (including any steps ordered)

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1. The complainant has requested information relating to a meeting between Kirby Muxloe Parish Council, Sport England and others. The Commissioner's decision is that Kirby Muxloe Parish Council has correctly applied the provision for vexatious requests at section 14(1) of the FOIA. She does not require the public authority to take any steps to ensure compliance with the legislation as regards this particular request.

#### Request and response

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2. On 15 February 2016, the complainant wrote to Kirby Muxloe Parish Council ('the council') and requested information in the following terms:

"I understand that a site meeting has recently been held between the Parish Council and Sport England and others. Please could you confirm when this took place and the full list of attendees. It is possible that Blaby District Council was represented as a contributor to relevant funding. If there was such attendance please clarify the status of the individual concerned.

I should like to know the purpose and subject matter of the meeting since there has been no reference to it on the Agenda of any Council or Trust meeting. On the assumption that you attended as

Proper Officer of the council, please also provide me with a copy of your notes of the meeting.

If there has been any follow-up correspondence between the parties concerned, then I should be grateful if you would also provide me with copies of any such correspondence."

3. The council responded on 10 March 2016 as follows:

- It confirmed that a meeting took place on 8 February 2016, and who attended.
- It said that there was no representative from Blaby District Council nor any members in their capacity as trustee of the Recreation Ground Charity.
- It described the purpose and subject matter of the meeting as being to enable Kirby Muxloe 88 JFC to prepare a revised outcome document to support their grant application to Sport England following a site visit of the pavilions by representatives of Sport England and further advices on the specifications for the renovations provided by members of the Pavilion Working Party.
- It said that the Clerk did not attend as Proper Officer of the council and that following a search of its paper and electronic records, no notes were made by the Clerk.
- It said that reference to the meeting was made at the meeting of the Pavilion Working Party on 4 February 2016 and that those minutes are being withheld under section 22 of the FOIA.
- Follow up correspondence dated 10 February 2016 from Kirby Muxloe 88 JFC to Sport England, and copied to the council, was provided. Two attachments to that correspondence ('Kirby Muxloe 88 JFC 5 year Development Plan' and 'Sport England Revised Application 09.02.16') were withheld under regulation 12(5)(b) of the EIR. It also appeared to apply the exemptions at sections 41 and 43 of the FOIA to the attachments.
- It withheld further correspondence dated 23 February 2016 between Sport England and Kirby Muxloe 88 JFC, and copied to the council, under the exemptions at sections 41 and 43 of the FOIA.

4. On 21 March 2016, the complainant expressed dissatisfaction with the response and requested a review.

5. The council provided an internal review on 29 April 2016. It said that the appeal is unsuccessful and that the council has acted properly in not supplying the minutes of meetings between Kirby Muxloe 88 JFC and Sport England in that they were not meetings of the Parish Council.

### **Scope of the case**

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6. The complainant contacted the Commissioner on 6 June 2016 to complain about the way her request for information had been handled.
7. During the course of this investigation, on 26 May 2017, the council informed the Commissioner, and the complainant, that in accordance with s.14 of the FOIA, it considers the request to be vexatious.
8. Given that a public authority can change its position in relation to a request up until, and including at, an appeal to the First Tier Tribunal (Information Rights), the Commissioner has considered whether the council has correctly applied section 14(1) of the FOIA to the above requests for information.

### **Reasons for decision**

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9. Section 14(1) of FOIA states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious. There is no public interest test.
10. The term 'vexatious' is not defined in the legislation. In *Information Commissioner vs Devon County Council & Dransfield*<sup>1</sup>, the Upper Tribunal took the view that the ordinary dictionary definition of the word vexatious is only of limited use, because the question of whether a request is vexatious ultimately depends upon the circumstances surrounding that request. The Tribunal concluded that 'vexatious' could be defined as the "...manifestly unjustified, inappropriate or improper use of a formal procedure" (paragraph 27). The decision clearly establishes that the concepts of 'proportionality' and 'justification' are central to any consideration of whether a request is vexatious.
11. In the Dransfield case, the Upper Tribunal also found it instructive to assess the question of whether a request is truly vexatious by

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<sup>1</sup> UKUT 440 (AAC) (28 January 2013)

considering four broad issues: (1) the burden imposed by the request (on the public and its staff); (2) the motive of the requester; (3) the value or serious purpose of the request; and (4) and harassment or distress of and to staff. The Upper Tribunal did, however, also caution that these considerations were not meant to be exhaustive. Rather, it stressed the

“importance of adopting a holistic and broad approach to the determination of whether a request is vexatious or not, emphasising the attributes of manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious requests” (paragraph 45).

12. The Commissioner therefore needs to consider whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress in relation to the serious purpose and value of the request.
13. The Commissioner has identified a number of “indicators” which may be useful in identifying vexatious requests. These are set out in her published guidance on vexatious requests<sup>2</sup>. The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of a case will need to be considered in reaching a judgement as to whether a request is vexatious.
14. In relation to the serious purpose and value of the request, the complainant provided the Commissioner with the following background information:

“The Parish Council is the sole trustee of a charity (The Recreation Ground Charity) whose land was originally donated in trust to the Parish Council as a pleasure ground (not playing fields) in 1920. A further piece of land was purchased by the Parish Council outright in 1965 as an open space with permission to build a sports pavilion. A small pavilion was duly built, and that land has been used as a village playing field since then, with two small sports pitches. All this land lies at the very heart of the village and includes public rights of way.

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<sup>2</sup> <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

As regards my first request,<sup>3</sup> a local junior football club claims to have used these pitches since 1988, and has also established pitches on the Charity Trust land. The club (KM88JFC) had put forward a large grant application to grant awarding bodies in 2012 to erect a new sports pavilion on the Trust land, with its own ambitious development plans involving 13 or more teams and very heavy usage at weekends and during the week throughout the year. After this had been turned down by the Football Foundation because there could be no security of tenure on that land, the club made a revised application to Sport England (SE) in September 2015 to refurbish the pavilion on PC land, together with a smaller pavilion on Trust land. Such grants inherently depend on the applicant having security of tenure, which is no doubt why SE recommended that there would be a greater chance of a successful application if the award was made to the PC. This proposal in principle that any grant should be made to the PC (rather than to KM88JFC) was confirmed without discussion as acceptable by the Parish Council at a meeting on 27 October 2015 (Minutes are available on the Parish Council website). Subsequently SE went further and determined that any grant could only be awarded to the PC [3a]<sup>4</sup> as the sole applicant for the pavilion on its own land, and not jointly as Trustee for anything on trust land... If that is the case, there remains a serious question as to whether the future use of the trust land would be in accordance with the governing document of the Charity as a 'public pleasure ground'. It is therefore important that the details of the revised application and the club's development plans now apparently endorsed by the PC are known and understood by parishioners both in their own right and as beneficiaries of the Trust. This is the underlying reason for my first request.

I would comment that the PC position has been hazy throughout. Information is not forthcoming and its records show no formal consideration of any of the development plans. The details have not been made public, and the PC appears to be very reluctant to make them public."

15. In its submission on the application of section 14(1), the council first explained that it is a relatively small parish of some 3390 residents and

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<sup>3</sup> The Commissioner notes that this refers to the request being considered in this decision notice.

<sup>4</sup> The Commissioner understands that [3a] refers to an email disclosed by the council in response to the request being considered in this decision notice.

it has no doubt that three residents are working in concert to disrupt the workings of the council.

16. It explained that there appears to be a pattern to the activities of the three residents and gave the example that when the annual accounts are published and made available to the public, one of the three sends a long email asking for many items to be copied and then arranges for a third party to collect them. It said that they will not pay the required 20p per sheet for copying but insist on paying 10p per sheet using a previous decision by the Commissioner as justification for this. It said that when they have received the document pack they will ask for a further batch of documents relating to the accounts to be copied and picked up. The council explained that following this, there is often an email and an objection lodged with the external auditor pointing out that in their opinion there are errors with the accounts. It said that this is then followed up with information requests to the council as they seek to gain evidence to support their objections and that inevitably, correspondence to the ICO and/or their solicitor follows, which the council then has to respond to. It also said that in the case of Audit costs are passed on to the council.
17. The council commented that two of the three residents have not attended any meetings of either the Parish Council or the Recreation Ground Charity for many years but one does and makes notes or records the proceedings. It said that shortly after the meeting it receives correspondence relating to agenda items that were approved, or just discussed, and there will often be remarks on social media relating to the meeting posted by one of the three residents.
18. The council said that it has received very many information requests from the three residents since 2009 in relation to council and Recreational Ground Charity Business, with 49 received between August 2014 and April 2017 which it considers to be totally out of proportion to a parish of its size. It explained that some of the requests contain a great many pages and that there have been numerous e-mails, as well as letters from their solicitors and the ICO, and that some of the matters relate to events and legal agreements of many years ago. It said that it has on occasions had to seek independent legal advice both in the form of a solicitor and a Queens Counsel and that more recently it has had to employ a consultant solely to deal with information requests from the three individuals (who at the time of writing is dealing with seven information requests).
19. The council explained that the requests have caused immense stress to parish councillors and in particular the parish clerk who works part time. It said that 2016 was a particularly difficult year as its full time clerk resigned in April and it then had a succession of three part time clerks,

two of whom would not take the job on permanently because of the disproportionate impact and stress caused by the information requests on their workload. It informed the Commissioner that its current clerk, who had previously worked for a clerk for another parish council, had never received a request under the FOIA in all the years she had worked there. It said that it has consulted with other parish council's in the area and that some receive two or three information requests per year and others rarely receive any which is in sharp contrast to Kirby Muxloe. It also said that it is worthy of note that in the period in which it received 49 requests from the three residents, it received four other requests from four other residents but that they were not in relation to the same matters.

20. It also said that the three residents have made information requests to third party public bodies, relating to the council's business with those public bodies, regarding content that they feel contravenes the law or good practice.
21. The council said that the unprecedented amount of requests has inevitably had an adverse effect on the effectiveness and efficient operating of the council and that matters which ordinarily could and should be dealt with in a more timely fashion have dragged on which has been commented on by residents.
22. The Commissioner was informed by the council that there have been, and currently are, vacancies on both its public bodies for which the three residents could apply to be co-opted members but they have never done so. It said it believes, and has some evidence, that the three residents are working together, but it does not know for what purpose, and it would seem that they are fishing for evidence/information that will enable them to challenge the council for perceived wrongdoing which is causing disruption and distress.
23. The council summarised it's submission on the application of section 14(1) as follows:

"We therefore feel that over the years we have been more than accommodating to these three residents and they now leave us with little choice but to bring matters to a conclusion for the following reasons:

- The costs we have incurred in staff time in relation to FOI requests
- The unjustified levels of disruption
- The aggregated disproportionate burden in workload
- The distress caused to staff and councillors

- The lack of willingness by the residents to help and support us by applying to be co-opted members and contributing to discussion and decision making.

We are now of the opinion that to prevent further harm to our provision of services we must stop this seemingly never ending torrent of correspondence by means of s.14(1) of the Freedom of Information Act 2000."

24. As stated in paragraph 12, the Commissioner needs to consider whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress in relation to the serious purpose and value of the requests. She has considered the council's arguments for the application of section 14(1) as supplied to her during the investigation of this case. Those arguments also relate to other cases that the Commissioner is currently dealing with. The Commissioner has also dealt with a number of other cases and has also drawn on that knowledge and experience.
25. As noted in paragraph 15, the council said it has no doubt that three residents are working in concert to disrupt the workings of the council.
26. The Commissioner's guidance on section 14(1) of the FOIA states at paragraphs 91 and 92:

"If a public authority has reason to believe that several different requesters are acting in concert as part of a campaign to disrupt the organisation by virtue of the sheer weight of FOIA requests being submitted, then it may take this into account when determining whether any of those requests are vexatious.

The authority will need to have sufficient evidence to substantiate any claim of a link between the requests before it can go on to consider whether section 14(1) applies on these grounds. Some examples of the types of evidence an authority might cite in support of its case are:

- The requests are identical or similar.
- They have received email correspondence in which other requesters have been copied in or mentioned.
- There is an unusual pattern of requests, for example a large number have been submitted within a relatively short space of time.
- A group's website makes an explicit reference to a campaign against the authority."



27. The council's explanation of the pattern of behaviour of the three residents, as described in paragraphs 16 & 17, together with the council's, and Commissioner's, knowledge of a pre-existing relationship between two of the residents, suggests to the Commissioner that the council has sufficient evidence to substantiate a claim that the complainant and the other two residents were acting in concert as part of a campaign.
28. The Commissioner notes that some of the council's arguments as to why the request in this case is vexatious relate to actions, and lack of actions, that the three residents are entitled to carry out, or not carry out. Those being; lodging objections to the accounts, making information requests to third party public bodies, not attending meetings and not applying to be co-opted members of the council or Recreation Ground Charity.
29. The Commissioner's aforementioned guidance on vexatious requests states the following:

"56. The context and history in which a request is made will often be a major factor in determining whether the request is vexatious, and the public authority will need to consider the wider circumstances surrounding the request before making a decision as to whether section 14(1) applies.

57. In practice this means taking into account factors such as:

- Other requests made by the requester to that public authority (whether complied with or refused).
- The number and subject matter of those requests.
- Any other previous dealings between the authority and the requester.

And, assessing whether these weaken or support the argument that the request is vexatious.

Therefore, the Commissioner has taken the council's points regarding the three residents actions, and lack of actions, into account when considering the context and history of this request.

30. The remainder of the council's arguments relate to the burden on, and disruption to, the council, as well as the distress caused to the clerk and councillors. The Commissioner acknowledges the disruptive effect the requests from the three residents have had on the council and considers that this is compounded by the fact it is a small parish council with one

part time clerk. She notes that the council argues that two clerks did not continue in their role due to the effect of the information requests.

31. It appears to the Commissioner that the detrimental effect on the council is partly due to failures on the part of the council to properly deal with all the requests for information. The question to be considered is whether the council's failures in respect of the FOIA are due to the amount of additional work put onto it by the number of, and the nature of the requests, or whether the requests are the result of the failure of the council to provide clear answers in the past.
32. The Commissioner considers that the council has contributed to the breakdown of relations between it and the three residents and that some of its responses to requests act as a springboard for more requests to be made. She also has to consider the rights of individuals to access recorded information held by public authorities and the intention of the FOIA to create transparency on issues relating to public authorities. The council cannot absolve its duties under the FOIA because of its size and nature.
33. On the other hand, the Commissioner considers that the three residents haven't helped the situation as there doesn't appear to have been any consideration of them modifying their behaviour in order to reduce the burden on the council. It appears that matters between them and the council wouldn't be resolved even if the council provided all requested information. Some of the issues being pursued by the three residents aren't related to transparency legislation and the Commissioner does not consider that the FOIA is the forum to resolve such issues. An example of this is that the complainant has informed the Commissioner that the Charity Commission is currently exercising powers under s.15 (2) of the Charities Act 2011 and the External Auditor has yet to close the Council's Accounts for 2015/16. The Commissioner considers that the council could establish a case for saying that some of the requests seek to visit issues which have an alternative route of redress via, for example, the Charity Commission, the courts or the Local Government Ombudsman. Not pursuing such routes, and instead making numerous requests for information, can be seen as an inappropriate use of formal procedure, and limits the value of the request in this case.
34. The Commissioner understands that the complainant considers the purpose and value of the request to be to fully understand the situation regarding the use of Trust land by the local junior football club, as described in paragraph 14 above. The Commissioner notes that the complainant considers there to be misrepresentation of the legal position. Although the Commissioner considers that the request in this case has serious value, she recognizes that this value has been significantly reduced due to circumstances in this case which are

described in the confidential annex to this decision notice. The Commissioner would also like to point out that it is not within her remit to adjudicate on whether the council has acted appropriately or otherwise as regards to the use of Trust land.

35. When making a decision in this case, the Commissioner has taken into consideration a First Tier Tribunal decision<sup>5</sup>. In that case, the request was one in a series of requests made by the appellant and was made in the context of an extensive series of requests made by four individuals, including the appellant. The public authority in this case was a small parish council employing one part-time clerk. Although the council had not always responded well to FOIA requests made to it (and had attracted the Commissioner's attention in this respect) it said that the total numbers of FOIA requests it faced from the four individuals had resulted in the serious compromise of its functions. During the course of the Commissioner's investigation all of the councillors had resigned, citing the harassment arising from the requests. During the appeal, the parish clerk also resigned for the same reasons, the second clerk to do so in two years. The Appellant argued that his request was not vexatious but was merely intended to hold the council to account and expose its bad practice. He accused the council of acting in a covert and unaccountable manner. He argued that had the council conducted itself properly, responded to previous FOIA requests properly, and apologised for its poor handling of his own requests, he would not have needed to make repeated requests. The Tribunal had no difficulty in finding the request vexatious and upholding the Commissioner's decision notice. In doing so, it called heavily upon the Upper Tribunal's judgement in *Dransfield*, noting that:

"The purpose of section 14... must be to protect the resources (in the broadest sense of that word) of the public authority from being squandered on disproportionate use of FOIA" (paragraph 7)

The Tribunal also said:

"Whilst, as noted by Judge Wikeley in *Dransfield*, "*one of the main purposes of FOIA is to provide citizens with a (qualified) right to access to official information and thus a means of holding public authorities to account*", FOIA provides just that and not more. It is intended to provide a right of access to official information; it is not intended, in

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<sup>5</sup> EA/2013/0080 *Walpole v IC & Walberswick Parish Council*  
[http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i1092/EA-2013-0080\\_02-10-2013.pdf](http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i1092/EA-2013-0080_02-10-2013.pdf)

itself, to provide a means of censure. Such matters are for the Ombudsman or the Administrative Court. Whilst providing accountability through a legitimate right of access to official information, the Act is not, and is not intended to be, a stick for the public to beat a public authority with." (paragraph 14)

The Tribunal found that in this case the overall volume of information requests made to a small council, both by the Appellant and others, was such as to very seriously hinder the operation of the council. Whilst it was not established that the Appellant was acting in concert with the three other requestors, the Tribunal was satisfied that the Appellant must have been fully aware of the volume of FOIA requests faced by the council and the effect that it was having on it, when making his own request. It said:

"In the Tribunal's view, the council had been wholly correct to say, in the words of Judge Wikeley in Dransfield (at §11), "Enough is enough" and to refuse to answer the Appellant's request relying upon section 14." (paragraph 18)

36. When considered in the context and history of this case, including consideration of the size and nature of the council, the Commissioner does not consider that the value and purpose of the request, which has been significantly reduced as described in the confidential annex, justifies the disproportionate effect on the authority. She considers that the responding to the request is likely to cause distress to staff and disruption to the council's operations. The Commissioner also considers that providing the requested information may not satisfy the complainant. Compliance with the request may result in further correspondence and the Commissioner has seen no evidence to suggest that providing the requested information in this specific request would satisfy the complainant or bring an end to the issue. Conversely, she considers that the complainant may use the requested information to create further points of dispute. The Commissioner can understand how responding further to this request, when coupled with previous dealings with the three residents, would cause a disproportionate or unjustified level of disruption, irritation or distress.
37. Returning to the findings of the Upper Tribunal in Dransfield, and its view that a holistic and broad approach should be taken in respect of vexatious requests, the Commissioner has decided that the council was correct to deem the request as vexatious. Accordingly the Commissioner finds that section 14(1) of the FOIA is engaged.

## **Other matters**

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38. During the course of this investigation, the council engaged the services of a consultant to deal with the Commissioner's enquiries on this case. The complainant raised concerns with the Commissioner regarding the council's general use of a consultant to deal with data protection and freedom of information issues.
39. The Commissioner considers that from a regulatory perspective, it is not detrimental for freedom of information and data protection matters to be dealt with externally. Conversely, it is good practice to identify weaknesses in request handling and to address them. The Commissioner would encourage the use of consultants if it promotes compliance with the legislation.
40. The situation with this case was complicated by the council's lack of expertise and further compounded by the lack of engagement with the Commissioner. It was necessary to seek further information and clarification from the council and despite the engagement of a consultant, deadlines for responding to written correspondence were missed, necessitating the issuing of an information notice. The deadline for responding to the information notice itself was also missed requiring the involvement of the Commissioner's solicitors to consider whether to issue a certificate to the High Court pursuant to section 54 of the FOIA.
41. The issues with engagement experienced in this case are not isolated. The Commissioner has seen the same pattern in other cases with the council. She has made enquiries regarding the lack of resources. The council should ensure that its responses to the Commissioner's enquiries in future are as thorough and timely as possible.
42. The Commissioner notes that the council's letter to the complainant dated 26 May 2017 advises the complainant that it considers her 'request(s) as vexatious and resolved to refuse any current /further freedom of information requests under s.14(1) of the FOIA.'
43. The council should ensure that it takes into consideration the Commissioner's guidance on dealing with vexatious requests<sup>6</sup> particularly paragraph 12:

"It is important to remember that section 14(1) can only be applied to the request itself, and not the individual who submits it. An authority

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<sup>6</sup> <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

cannot, therefore, refuse a request on the grounds that the requester himself is vexatious. Similarly, an authority cannot simply refuse a new request solely on the basis that it has classified previous requests from the same individual as vexatious."

44. It is not appropriate for the council to class future requests as vexatious without considering the specific request individually.
45. The complainant also raised the following concerns regarding aspects of the council's policy on 'Handling of FOI and SDA requests'<sup>7</sup>:

"The potential timescales involved in following the full review and complaint process of 100 working days appears to be unreasonable, and I would also question whether it is correct to claim that a series of requests from a single applicant over a 12 month period can be aggregated in arriving at the 18 hours of work which becomes chargeable. It would appear to raise a potential issue if the Council is to rely on external consultancy in handling initial FOI requests (rather than responding to the ICO investigations), as to whether an unscrupulous Council could then interpret this cost as a 'disbursement' and chargeable to the applicant."

46. As regards to the timescales involved in the review process, the Commissioner notes that the council appears to have a two stage process whereby a response to an initial complaint regarding a response to an information request (the 'internal review process') will normally be provided within 40 working days and, if dissatisfied with that response, a 'formal complaint' should be made which will be responded to within an further 40 working days.
47. While no explicit timescale for conducting an internal review is laid down by the FOIA, the Commissioner's view of a reasonable time for completing an internal review is 20 working days, or 40 working days in exceptional cases. The Commissioner also considers that an internal review should be a straightforward, single-stage process. These points are covered in the Commissioner's 'The Guide to Freedom of Information'<sup>8</sup> at pages 57-58. The Commissioner considers that the council should review its internal review process in line with her guidance and update its policy accordingly.

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<sup>7</sup> [http://www.kirbymuxloe-pc.org.uk/docs/view.php?file=Policies/Handling of FOI and SDA requests.pdf](http://www.kirbymuxloe-pc.org.uk/docs/view.php?file=Policies/Handling%20of%20FOI%20and%20SDA%20requests.pdf)

<sup>8</sup> <https://ico.org.uk/media/for-organisations/guide-to-freedom-of-information-4-8.pdf>

48. With regards to aggregating requests in order to arrive at the 18 hours of work which becomes chargeable, the Commissioner draws the council's attention to paragraph 39 of her guidance on 'Requests where the cost of compliance exceeds the appropriate limit'<sup>9</sup>:

"When a public authority is estimating whether the appropriate limit is likely to be exceeded, it can include the costs of complying with two or more requests if the conditions laid out in regulation 5 of the Fees Regulations can be satisfied. Those conditions require the requests to be:

- made by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign;
- made for the same or similar information; and
- received by the public authority within any period of 60 consecutive working days."

The Commissioner considers that the council should review the guidance and update its policy so that the reference to 'a 12 month period' is replaced with '60 consecutive working days'.

49. Finally, in relation to classing costs of using an external consultancy to handle information requests as 'disbursement' chargeable to the applicant, the Commissioner draws the council's attention to her guidance on 'Fees that may be charged when the cost of compliance does not exceed the appropriate limit'<sup>10</sup>. Whilst the Commissioner is not aware that the council has attempted to charge for the cost of an external consultancy, it should note that such guidance states that a public authority should not include staff time as a disbursement even where they would consider it as an 'administration' or 'handling' fee.

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<sup>9</sup> [https://ico.org.uk/media/for-organisations/documents/1199/costs\\_of\\_compliance\\_exceeds\\_appropriate\\_limit.pdf](https://ico.org.uk/media/for-organisations/documents/1199/costs_of_compliance_exceeds_appropriate_limit.pdf)

<sup>10</sup> [https://ico.org.uk/media/for-organisations/documents/1168/fees\\_cost\\_of\\_compliance\\_appropriate\\_limit.pdf](https://ico.org.uk/media/for-organisations/documents/1168/fees_cost_of_compliance_appropriate_limit.pdf)

## Right of appeal

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50. 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)

51. 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.
52. 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**