

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 April 2020

Public Authority: Doncaster Council

Address: Waterdale
Doncaster
DN1 3BU

Decision (including any steps ordered)

1. The complainant requested from Doncaster Council (the Council) information relating to council tax overpayments and refunds. The Council refused to comply with the request under section 14(1) (vexatious requests) of the FOIA.
2. The Commissioner's decision is that the request was vexatious and the Council was therefore entitled to rely on section 14(1) of the FOIA to refuse to comply with the request. The Commissioner does not require the Council to take any steps as a result of this decision.

Request and response

3. On 27 September 2019 the complainant wrote to the Council and requested information in the following terms:

"With reference to the above, I wish to request the following information under the Freedom Of Information Act 2000:

- 1) *The number of over payments made to DMBC for the past 1825 days, referencing point number one from 'DMBC FOI Request 1 20190517 [address redacted]' along with taking each day as an individual request.*

- 2) *The amount in GBP (£) of over payments made to DMBC for the past 1825 days, referencing point number one from 'DMBC FOI Request 1 20190517 [address redacted]' along with taking each day as an individual request.*
 - 3) *The longest period of time in days that it took DMBC to refund an overpayment of council tax to the person or persons due a refund referencing point number one from 'DMBC FOI Request 1 20190517 [address redacted]' along with taking each day for the past 1825 days, again referencing point number one from 'DMBC FOI Request 1 20190517 [address redacted]' as an individual request.*
 - 4) *The shortest period of time in days that it took DMBC to refund an overpayment of council tax to the person or persons due a refund referencing point number one from 'DMBC FOI Request 1 20190517 [address redacted]' along with taking each day for the past 1825 days, again referencing point number one from 'DMBC FOI Request 1 20190517 [address redacted]' as an individual request.*
 - 5) *The number and outcome of all complaints made to DMBC about delays in providing refunds, referencing point number one above, for the past 1825 days, referencing point number one from 'DMBC FOI Request 1 20190517 [address redacted]' along with taking each day as an individual request."*
4. On 2 October 2019 the Council acknowledged the request and asked the complainant to provide further details regarding the information he specifically required.
 5. On the same day the complainant wrote to the Council with additional clarification to his request.
 6. On 29 October 2019 the Council responded and refused to comply with the request under section 14(1) of the FOIA.
 7. On 31 October 2019 the complainant asked the Council for an internal review and stated that he was dissatisfied with its response to his request.

Scope of the case

8. The complainant contacted the Commissioner on 31 October 2019 to complain about the way his request for information had been handled. Specifically, the complainant stated that he disagreed with the Council's refusal to provide the information requested.
9. Following the Commissioner's intervention, on 28 November 2019 the Council provided the complainant with its internal review response. The Council upheld its original position and explained the basis for its decision to consider the request vexatious.
10. The following analysis considers whether the request was vexatious by virtue of section 14(1) of the FOIA.

Reasons for decision

Section 14(1) - vexatious requests

11. 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.
12. The term 'vexatious' is not defined in the FOIA. The Upper Tribunal (Information Rights) considered in some detail the issue of vexatious requests in the case of the *Information Commissioner v Devon CC & Dransfield*¹ (GIA/3037/2011). The Tribunal commented that vexatious could be defined as the "*manifestly unjustified, inappropriate or improper use of a formal procedure*". The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.
13. In the Dransfield case, the Upper Tribunal also found it instructive to assess the question of whether a request is vexatious by considering four broad issues: (1) the burden imposed by the request (on the public authority and its staff), (2) the motive of the requester, (3) the value or serious purpose of the request and (4) harassment or distress of and to staff.

¹ <https://www.judiciary.uk/judgments/info-commissioner-devon-county-council-tribunal-decision-07022013/>

14. 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).
15. In the Commissioner's guidance, she suggests that the key question for public authorities to consider when determining if a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
16. 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 requests². In brief these consist of, in no particular order: abusive or aggressive language; burden on the authority; personal grudges; unreasonable persistence; unfounded accusations; intransigence; frequent or overlapping requests; deliberate intention to cause annoyance; scattergun approach; disproportionate effort; no obvious intent to obtain information; futile requests; frivolous requests.
17. 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.
18. The task for the Commissioner is to decide whether the complainant's request was vexatious in line with the approach set out by the Upper Tribunal. In doing so she has taken into account the representations of the Council and the evidence that is available to her. In this decision notice, the Commissioner will also refer to her published guidance on defining and dealing with vexatious requests.

The complainant's position

19. The complainant disagrees with the Council's refusal to comply with his request. In his correspondence to the Commissioner, he stated that his dispute also regards the Council's *"failures"* following the information provided to him by the Council regarding his right(s) to escalate his complaint relating to his FOI request.

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

20. The complainant confirmed that he wanted the Council to furnish him with the information requested and to provide him with a written apology for its *"failures and errors."* He said that he remained dissatisfied with the Council's response, *"or lack of, to date."*

The Council's position

21. The Council provided the Commissioner with its reasons for applying section 14(1) of the FOIA.
22. Within the Council's decision to refuse the request on the grounds that it is vexatious, the Council said that it considered the criteria set out in the Information Commissioner's guidance on vexatious requests. It made reference to a number of indicators taken from this guidance, including:
- Burden on the authority
 - Unfounded accusations
 - No obvious intent to obtain information
 - Unreasonable persistence
 - Value or serious purpose of the request
 - Harassment or distress of and to staff

The Council's representations under each of these headings were as follows.

- **Burden on the authority**
23. The Council explained that it had taken account of the number of requests received from the complainant and the number of questions in each request. Also, that the request contained multiple sub-parts and appeared to be confusing. The Council said it had asked the complainant to clarify his requests and informed him that his request to have information separated into daily parts i.e. *"taking each day as an individual request"* and *"taking each day for the past 1825 days"* would create an excessive amount of work for the Council.
24. The Council stated to the complainant that it considered his information request imposes a burden to the Council *"by obliging the authority to sift through a substantial volume of information to isolate and extract the relevant details and include information which is only of limited value due to the wide scope of your request. Additionally your request creates a burden by requiring the authority to spend a considerable amount of time considering any exemptions and redactions."*

25. The Council confirmed to the Commissioner that the complainant had made numerous requests for information to the Council. It reported that in a five month period, seven requests containing 72 questions asking for the information to be separated into daily figures over a total of 9125 days (1825 x 5) had been submitted by the complainant. The Council said that this would place a strain on its resources and staff if it had to collate and provide information in the manner requested, and the Council did not consider this reasonable.
26. The Council also reported that the complainant had frequently asked for information which it believed he knew was not held by the Council, as he had previously asked for the same information. The repeated requests the Council stated, had been a burden and caused stress on individual council officers.
27. The Council said that the requests imply "*obsessional behaviour*" from the complainant, for example his request for compensation to cover "*poor service*" and making formal complaints regarding his FOI requests. The Council stated that the complainant had, in relation to some of his requests, refused attempts to clarify the actual information he was seeking.
28. The Council reported seven requests consisting of multiple questions on the same themes were submitted between June and November 2019. The Council said that it had provided the complainant with the information requested where it considered the requests reasonable. However, the Council reiterated that many of the requests were vague and confusing, therefore making it difficult to ascertain what the complainant was requesting.

- **Unfounded accusations**

29. The Council stated that the complainant had made a number of accusations about council staff and referred to the information governance team as incompetent and inexperienced in dealing with FOI requests. The complainant also believed that the Council had breached the statutory timeframe, although the Council had responded on 29 October 2019 to the complainant's response for clarification received on 2 October 2019, which was within the statutory deadline for the response.

- **No obvious intent to obtain information**

30. The Council argued that the request was "*extremely wide ranging*" and reiterated that he had made numerous requests asking for detailed information over long periods of time. This, the Council viewed as "*making the requests as wide as possible.*"

31. The Council considered the nature of the requests and the history of the complainant's correspondence with the Council, did not indicate a genuine interest in the information sought. Therefore, the Council believes that the complainant is abusing his rights of access to information by using the legislation as a means to vent his anger at a particular decision, or to harass and annoy the Council.

- **Unreasonable persistence**

32. The Council highlighted the fact that the requests contain multiple sub-parts and appear to be designed to assert a personal grudge or issue. The Council confirmed that there is a history of requests relating to a particular council property and council services provided or enforcement services involvement. Therefore, the Council considers that the subject of the request is a repeat of previous requests and appears to be part of the same campaign.

- **The value or serious purpose of the request**

33. The Council stated that *"the request is part of a series of requests regarding enforcement actions, fines or late payment fees and appears designed to collect data on numerous financial themes with no serious purpose or value."*

- **Any harassment or distress of and to staff**

34. The Council considers the complainant's comments regarding the competence and experience of council staff goes *"beyond the level of criticism that a public authority or its employees should reasonably expect to receive."*

The Commissioner's position

35. There are many different reasons why a request may be considered 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 judgment about whether a request is vexatious. A request does not necessarily have to be about the same issue as previous correspondence to be classed vexatious, but equally, the request may be connected to others by a broad or narrow theme. 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.

36. The Commissioner's guidance emphasises 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. 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.
37. The Commissioner acknowledges the background of this case, and it is clear that the complainant had made a number of requests to the Council relating to the same subject matter between June 2019 and November 2019.
38. The Commissioner notes that the Council had asked the complainant to clarify his present request, and in the complainant's reply he highlighted what he considered to be "*additional clarification.*" However, although in its response the Council acknowledged the complainant's clarification of the request, it said that his reply was confusing as it contained multiple sub-parts. Therefore, the Council believed that the request had not been clarified and refused the request on the grounds that it considered it vexatious. The Council provided the complainant with its reasons for refusing to comply with the request under section 14(1) of the FOIA. This included a reference to the number of previous requests it had received from the complainant, and the number of questions in each request which the Council had taken into consideration.
39. The Commissioner also notes the complainant's unfounded accusations made against council staff. It is clear that the complainant is dissatisfied with the Council and the Commissioner is of the view that the present request is a continuation of that dissatisfaction. Taking into account the evidence provided, the Commissioner considers that the request appears to be a means of furthering his own disagreement with the Council, which can be considered an inappropriate use of information rights under the FOIA.
40. The evidence provided to the Commissioner demonstrates the complainant's grievances against the Council. The Commissioner wishes to reiterate that the purpose of the FOIA is to promote transparency and accountability to the general public and it should not serve as a mechanism for addressing personal grievances.

41. The Commissioner appreciates that the information the complainant has requested is of interest to him. However, the Commissioner has to consider whether the request is of sufficient wider public interest or value that it would be reasonable for the Council to comply with it, despite the burden involved. As such, the Commissioner recognises that taking into account the wider pattern of requests and correspondence, compliance with these requests would only serve to increase the already significant burden upon the Council.
42. The Commissioner notes that the Council has already dedicated a considerable amount of time and effort to respond to the issues raised by the complainant. It is the Commissioner's view that if the Council was to comply with the request it would create a burden that is disproportionate to the request's wider value. In reaching this conclusion, the Commissioner also took into account the Council's limited resources available to it in performing its duties.
43. The Commissioner has given consideration to the findings of the Upper Tribunal in *Dransfield* that a holistic and broad approach should be taken in respect of section 14(1) of the FOIA. Taking into account all the above factors, and having viewed some of the evidence which clearly illustrates a vexatious request, the Commissioner's decision is that the request was vexatious and the Council correctly relied on section 14(1) in this case. Therefore, the Council was not obliged to comply with the complainant's information request.

Right of appeal

44. 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@justice.gov.uk.

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

45. 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.
46. 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

Ben Tomes
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF