

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 January 2023

Public Authority: Flintshire County Council
Address: County Hall
Mold
Flintshire
CH7 6NB

Decision (including any steps ordered)

1. The complainant requested information about the legal ownership of summons and liability orders for Council Tax. Flintshire County Council (the Council) refused to comply with the request citing section 14(1) (vexatious request) of the FOIA. The Commissioner's decision is that the Council has correctly applied section 14(1) of FOIA. The Commissioner requires no steps to be taken as a result of this decision.

Request and response

2. On 26 August 2022, the complainant wrote to Council and requested information in the following terms:

"Under the Freedom of Information I request the following:

- 1) Who has legal ownership of the issued Summons for non payment of Council tax and ensuing Liability Order?
- 2) If the court owns it then why is the council printing and serving them?
- 3) If Flintshire County Council owns them then why the crown seal, impersonating a court?

3. The Council responded on 30 August 2022. It refused to comply with the request, stating that it was vexatious and as such section 14(1) of the FOIA applied. The Council upheld this position in its internal review response dated 1 September 2022.

Reasons for decision

Section 14(1) – vexatious requests

4. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
5. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s updated guidance on section 14(1)¹ states, it is established that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
6. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
7. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
8. The emphasis on protecting public authorities’ resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) (“Dransfield”)². Although the case was subsequently appealed to the Court of Appeal, the UT’s general guidance was supported, and established the Commissioner’s approach.
9. Dransfield established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.

¹ <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

² <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

10. The four broad themes considered by the Upper Tribunal in Dransfield were:

- the burden (on the public authority and its staff);
- the motive (of the requester);
- the value or serious purpose (of the request); and
- any harassment or distress (of and to staff).

11. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. They stated:

“all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA” (paragraph 82).

The Council's view

12. The Council advised the Commissioner that the complainant has sent multiple items of correspondence, including FOIA requests concerning the legitimacy of paying Council Tax since January 2022, when they stopped paying their Council Tax. The Council advised that the complainant is of the opinion that Council Tax is illegal and, as such the Council is acting fraudulently and is corrupt in collecting Council Tax.

13. The Council advised that it has provided the complainant with information about the legality of Council Tax and referred them to the Valuation Office Agency regarding any queries concerning the banding of their property.

14. The Council confirmed that it has dealt with this matter ie the legitimacy of paying Council Tax under its complaint procedure. The complaint was not upheld and they were referred to the Public Services Ombudsman for Wales and it was also suggested that the complainant seek independent legal advice on the matter.

15. Since January 2022 the Council advised that it has received 14 items of correspondence from the complainant regarding the legality of paying Council Tax, which includes four FOI requests on the issue. In March 2022 when the Council responded to queries the complainant raised about the legality of Council Tax, it advised them that it would not respond to any further correspondence on the matter.

16. In March 2022 the complainant wrote to the Council asking for their email address to be removed in order that the Council would be unable to send any digital communications to them. This request was rejected

by the Council. In addition, on 11 August 2022 the complainant also requested that the Council refund all their Council Tax payments from 2018 to 2022 via a direct debit indemnity. This request was challenged by the Council and the challenge was accepted by the complainant's bank and no refund of payments was made. The case was also heard in the Magistrates Court on 16 August 2022 where a liability order was granted.

The complainant's view

17. The complainant argues that their request asks three simple questions which the Council should respond to. They consider the Council's refusal to comply with the request to be "threatening and distressing" and points out that the Council are "Public Servants and have a duty to behave and function as such and comply with the Nolan Principles".
18. The complainant alleges that there is "clear evidence of fraudulent misrepresentation, for failure to answer an FOI request and a DSAR regarding legal or lawful obligation to pay, falsifying a document to pretend it has been signed and authorised 4 years later, failure to provide a valid signed contract, failure to fully disclose, fraudulent imitation of the courts and malfeasance in public office".

The Commissioner's decision

19. In cases where a public authority is relying on section 14(1), it is for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.
20. In his guidance on dealing with vexatious requests, the Commissioner recognises that FOIA was designed to give individuals a greater right of access to official information with the intention of making public bodies more transparent and accountable. Therefore, engaging section 14(1) is a high hurdle.
21. Most people exercise their right of access responsibly. However, a few may misuse or abuse FOIA by submitting requests which are intended to be annoying, disruptive or have a disproportionate impact on a public authority.
22. The Commissioner recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.

23. The Commissioner's guidance states that:

"The key question to consider is whether the value and purpose of the request justifies the distress, disruption or irritation that would be incurred by complying with it. You should judge this as objectively as possible. In other words, would a reasonable person think that the value and purpose of the request are enough to justify the impact on the authority?"

24. The Commissioner observes that the questions raised do not appear to have a value or serious purpose in terms of there being an objective public interest in the information sought.

25. Whilst there is a general public interest in transparency and accountability surrounding public authorities, the Commissioner does not believe that disclosure would serve to prompt, or further, any worthwhile public understanding or debate.

26. The Commissioner concurs that the nature of the request, and the questions posed, are indicative of the complainant's position regarding the payment of Council Tax. He therefore considers that the complainant is using the FOIA inappropriately to raise arguments with the Council.

27. Revisiting the themes of vexatiousness within the Dransfield case, the Commissioner is satisfied that the complainant's motives behind this request are to further a personal campaign against the Council.

28. Balancing these factors against the little value and purpose that the request appears to represent, the Commissioner deems the high bar contained within section 14(1) is met.

29. The Commissioner believes that the request was vexatious and therefore the Council was entitled to rely on section 14(1) of the FOIA to refuse the request in its entirety.

Right of appeal

30. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

31. 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.
32. 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

Joanne Edwards
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF