

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 February 2023

Public Authority: North Lincolnshire Council
Address: Church Square House
30-40 High Street
Scunthorpe
North Lincolnshire
DN15 6NL

Decision (including any steps ordered)

1. The complainant has requested information about an investigation. The above public authority ("the public authority") initially said it did not hold any information before refusing the request as vexatious.
2. The Commissioner's decision is that the request was vexatious and therefore the public authority was not obliged to comply with it. The public authority breached section 17 of FOIA.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 26 April 2022, the complainant wrote to the public authority and requested information in the following terms:

"Please disclose all information [sic] regarding the investigation by [redacted] in to the operating of ambulances being used on Home to school transport by North Lincolnshire council.

"Which officers or councillors were responsible for the implementation of these [sic] vehicles being used on Home to school transport runs

"was this a subject which was discussed at a council meeting if so when was this?

"Also if it was discussed at council meeting please release all times and minutes of the meeting concerned

"which licencing [sic] officer was responsible for authorising the licences for these [sic] ambulances."

5. The public authority responded on 24 May 2022. It denied holding any information – a position it upheld following an internal review.
6. During the course of the Commissioner's investigation the public authority changed its stance and instead refused the request as vexatious.

Reasons for decision

7. Section 14 allows a public authority to refuse any request it considers to be vexatious. A vexatious request is one that is without reasonable foundation, an unjustified use of a formal procedure or which would require a disproportionate use of resources.
8. The complainant argued that his request was not vexatious. He denied having any personal grudge against the public authority (he described the allegation as "childish") and said that the public authority was:

"wishing to muddy the waters and fight fire with fire to prevent scrutiny against the council for a serious lack of transparency...
...Northlinconshire [sic] council are abusing their powers by refusing to release information held on file which should be released in the interest of the public."
9. The complainant also claimed that the public authority did not understand the meaning of "vexatious" in the context of FOIA.
10. The public authority explained that the request traces its route back to a decision, in 2018, not to renew the taxi licence held by a member of the complainant's family – although some of the engagement appears to have been going on prior to that date.
11. The public authority noted that it had received, from the complainant and his family a total of 46 requests for information since the beginning of 2017 – mostly related to taxi licensing or the operation of taxi contracts.

12. It also provided the Commissioner with a log of 97 phone calls it had received from either the complainant or members of his family between 2017 and 2020.
13. The public authority had also received a total of 12 formal complaints from the complainant or members of his family between 2017 and 2020. It told the Commissioner that both the complainant and his family had been abusive and aggressive towards its staff in the past.

The Commissioner's view

14. The Commissioner considers that the request was vexatious.
15. In the Commissioner's view, there is a clear line that can be drawn between this request and the public authority's decision not to review the taxi licence of a member of the complainant's family. It is evident that the complainant's family is aggrieved at that decision, but the decision has been unsuccessfully challenged at both a magistrate's court and a crown court.
16. The focus has since shifted from the licensing decision itself, to the way in which the public authority licenses taxis and the way it operates various taxi-like transport contracts.
17. Whilst the evidence base is stronger for the period prior to 2021, the Commissioner has seen sufficient evidence to demonstrate that there was no significant improvement in the behaviour of the complainant and his family in the period from 2020 to the point at which the request was made. It is evident that the complainant is continuing to pursue this matter and that the latest request has been motivated by previous dealings.
18. Where a group of individuals is acting in concert to pursue a particular issue, a public authority is entitled to take account of the behaviour of the group as a whole, not just the individual who actually submits the request.
19. The complainant is clearly acting in conjunction with members of his family and, whilst the evidence of aggressive, abusive or intimidatory behaviour appears to be stronger in respect of other family members than of the complaint himself, it is also evident that, at various times, all family members have conducted themselves in an unpleasant way towards the public authority.
20. The Commissioner is not aware of any wider public concern about the way in which the public authority is running its various taxi-related services and he considers that requiring the public authority to deal with the request (not least because it does not appear to hold the information

anyway) would be of negligible public benefit. This is a private concern of the complainant and his family.

21. The ongoing correspondence is placing a considerable burden on the public authority which is wholly disproportionate to its value. In the Commissioner's view, the purpose of this ongoing correspondence is an attempt to persuade the public authority to change previous decisions in favour of the complainant's family. That is an abuse of the FOIA process.
22. The Commissioner is therefore satisfied that the request was vexatious and that the public authority was entitled to rely on section 14(1) of FOIA to refuse it.

Procedural matters

23. As the public authority failed to rely on section 14 within 20 working days, it breached section 17 of FOIA.

Right of appeal

24. 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

25. 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.
26. 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

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