

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 February 2024

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

Decision (including any steps ordered)

1. The complainants made two requests to North Lincolnshire Council ("the Council") for information regarding a variety of topics, relating to council tax, the Council's investments and the use of information on the open register of the electoral roll. The Council has refused both requests under section 14(1) of FOIA on the grounds that they are vexatious.
2. The Commissioner's decision is that the Council is entitled to refuse these two requests under section 14(1) of FOIA on the grounds that they are vexatious. However, the Commissioner has found that the Council breached section 10(1) of FOIA by failing to respond to the second request within the statutory time frame of 20 working days.
3. The Commissioner does not require further steps.

Request and response

Request 1

4. On 14 November 2022 the complainants made the following request for information:

"Please provide us with the following information for the the last six years:

1. How much revenue did North Lincolnshire Council collect from residents in the form of Council Tax in the last six years (breaking it down for each year)
2. How does North Lincolnshire Council spend Council Tax revenue collected from tax payers. Give a clear breakdown of how the Council tax funding is being spent, in terms of pounds as opposed to percentages in the last six years (breaking it down for each year)
3. How much revenue was raised from the sale of residents recycled waste in the last six years and give a clear breakdown of how this revenue was spent in terms of pounds, not percentages (breaking it down for each year)
4. How much did North Lincolnshire Council collect by the issuance of Summonses and Liability Orders in the last six years and give a clear breakdown of where this revenue was spent, in terms of pounds, broken down for each year
5. How much did North Lincolnshire Council collect by the issuance of parking fines in the last six years and give a clear breakdown of how this revenue was spent, quoting in pounds and not percentages for each year
6. Provide information on which Law states that Council Tax is obligatory - Please do not quote the local Government Finance Act 1992, as this is merely an Act and as you are aware legislation is not Law and acts and statutes need consent by the the governed in order to be legal
7. Provide information on which Law states it is a criminal offence to not pay council tax. Do not quote 'Administration and enforcement regulations 1992' as Acts and Statutes are not Law
8. Please attach a copy of the contractual agreement where we agreed to pay council tax. Provide evidence of a) full disclosure b) equal consideration c) Lawful terms and conditions d) Mutual consent (signed by both parties). These are the four elements which make a contract legal. Please bear in mind that 'presumptuous agreements' do not stand up in court if rebutted. For a presumption to be standing in fact it

must be agreed by both parties. We rebut all 12 Presumptions of Law. Please don't offer an explanation that liability arises under the local Government Finance Act 1992 which is not contingent on our consent or the existence of a contract with North Lincolnshire Council as Acts and Statutes are not law and need consent.

9. Please confirm that North Lincolnshire Council is a for profit corporation with the D-U-N-S® Number 424005502
10. Please provide information on why the council tax bills sent out by North Lincolnshire Council do not bear the following requirements: VAT registration number, details of the services provided, the rate of VAT (which may be zero rated or 0%) and company registration number
11. Supply information regarding the Governments £150 energy rebate this year. How did the council quantify to the government how much was needed to cover this payment to residents and what was the amount received
12. How many homes fall within Band A to D in North Lincolnshire
13. How many homes who fell within band A to D did not receive the £150 rebate
14. Which law gives the Council authority to exercise any of the powers of the court of record and/or perform any judicial business as the The Local government Act 1888, Section 78 (2) is very clear that there is no authority to do so."

5. The Council responded on 12 December 2022. It:

- provided some information within the scope of parts 3, 5, 9, 10, 11, 12 and 13 of the request,
- refused parts 1, 2 and 4 of the request under section 21 of FOIA (information accessible to applicant by other means),
- stated that it did not consider part 14 to be a request for recorded information held by the Council
- stated that, "if you are asking for us to make comment or provide potential legal advice and/or interpretation this would fall outside of the scope of the Freedom of Information Act and your rights under the Data Protection Act for subject access", it would appear this was in response to parts 6 and 7 of the request.
- did not respond to part 8 of the request.

6. The Council upheld its position at internal review.

Request 2

7. On 19 December 2022, when requesting an internal review for the first request, the complainants also made a new request under FOIA. They requested the following information regarding Correct Compliance Ltd:

“Although we can see that there is a Disclosure of Pecuniary Interest signed by Rebecca McIntyre declaring her role as director on behalf of North Lincolnshire Council the question is:

- Why does this company not have a name which is easily recognised as a North Lincolnshire Council Company, for example CORRECT COMPLIANCE NORTH LINCOLNSHIRE COUNCIL LTD This would make it much more transparent to the public.
- Where are these shares derived from
- Who are the shareholders
- How and when will they be brought back to the public purse”

And

“Please provide a list of:

- All Companies, Societies and Charities North Lincolnshire Council have an invested interest in, both within the UK, England and overseas whether listed on Companies House or elsewhere
- For each of the Companies, societies, charities listed above please provide the following information:
- The name of the individual(s) who authorised the formation of each one
- Name(s) of individual(s) carrying out the risk assessments
- Names of all shareholders
- Where did the funds come from
- What assets are being held
- How is the money being brought back to the people
- Please name all investments which North Lincolnshire council have any interest in, both on the stock market or elsewhere. This includes, but is not limited to:
- Stocks, Bonds, Shares, Funds, ETF's, Insurance bond wrappers, pensions
- As above, where did the funds come from to make the investment and how is it being brought back to the people
- Please clarify any potential conflict of interest of any individual acting as both a director of a company whilst holding a position within the council

Please also supply the following information:

- How much revenue has been raised in the last 6 years, by selling the private data of those individuals on the open register of the electoral roll - please give a figure for each year and give a breakdown of how and where this income has been spent
 - What steps have been taken to ensure the public are fully aware that their data will be sold if they are on the open register and have the absolute right to have it removed, other than making it known on the ICO website.”
8. At the time of making their complaint to the Commissioner the complainants had not received a response to this request.

Scope of the case

9. During the course of the Commissioner’s investigation the Council changed its position to refuse the first request as vexatious.
10. It also issued a response to the second request, on 3 November 2023, refusing this request as vexatious.
11. This notice therefore considers whether the Council is entitled to refuse each of the two requests as vexatious under section 14(1) of FOIA. It will also address the Council’s late response to the second request.

Reasons for decision

Section 14(1) – vexatious requests

12. Section 14(1) FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
13. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s 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.

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

14. 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.
15. However, 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.
16. 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.
17. 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).
18. However, the Upper Tribunal 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).
19. The Commissioner's guidance based on the above case law 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. A public authority must

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

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?"

The Council's view

20. The Council argues that these requests are motivated by the complainants being unwilling to pay Council tax, as is required by the Council Tax (Administration and Enforcement) Regulations 1992³.
21. It stated that the complainants have been subject to the council tax recovery process for the non-payment of council tax and that these requests were made subsequent to this action having been taken.
22. Regarding request 1, the Council also considers the request to be vexatious for the following reasons:
 - It considers it is motivated by a personal grudge, following the council tax recovery process.
 - It considers there is no obvious intent to obtain information, instead it considers the request is an ongoing attempt to avoid the payment of council tax.
 - It considers the request to be futile, if, as it suspects, the reason for the requests is to avoid payment council tax, because legislation in England requires a liable party to pay council tax.
 - It considers the complainants have demonstrated unreasonable persistence in relation to this issue. In addition to the FOI requests, there has been one letter handled by the Local Taxation and Benefit team outside of the Freedom of Information process, one request to understand how personal data is being processed, a subject access request from each of the complainants and a request it believes to be connected to the complainants from a family member.
 - It considers the complainants have demonstrated intransigency, in that they appear not to accept that council tax must be paid in England by the liable party.
 - It considers there to be little value of the information requested to the public as the payment of council tax and the council tax

³ [The Council Tax \(Administration and Enforcement\) Regulations 1992 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

recovery process are set out in legislation and these processes are explained on the council website.

- It does not consider the impact on the Council of complying with the request is proportionate to the objective public interest in the information sought. In terms of the impact on the Council, it has stated that although the Council publishes comprehensive information about the council tax process, this request seeks further detail which would place a burden on the Council. The Council considers that due to the nature of the questioning about whether council tax must be paid in England, it is not proportionate to remove staff from existing workloads in order to comply this request.
 - It considers that the requester is abusing the right of access to information because they do not want pay council tax.
 - It considers that the request has a deliberate intention to cause annoyance.
23. Although the link to council tax is less immediately apparent for the second request, the Council considers that this request has the same motive, to avoid paying council tax. In respect of this, it highlighted the following statement made by the complainants when making the second request, regarding their reasons for doing so:
- “The original reason for this FOI request was because over the last five years or so the services provided by the Council have decreased greatly - closures of parks and other public facilities, less staff to deal with customer enquiries, exceptionally long queues for phone enquiries, unacceptable time frame for vulnerable customers applying for support for benefits, the removal of exemptions for empty properties and properties undergoing substantial repairs (which has brought in a substantial amount of extra funds) and whilst all this is going on the value of the Demand Notices (the Council’s description, not ours) keeps on forever increasing.”
24. The Council states that it understands that the complainants are referring to the demand to pay outstanding council tax when they refer to “demand notices”.
25. The Council considers that there is no inherent purpose or value to this request because the complainants are attempting to find more and more information that they are intending to use to support them in their argument about not paying council tax where they are the liable party.

The Council argues that this is not in the public interest as the collection of council tax is crucial to a local authority as a source of revenue.

26. The Council states that the detrimental impact of complying with the request is that to do so would take council officers away from their day-to-day roles for a considerable amount of time and this would impact the provision of council services. It does not consider this impact to be justified by the purpose or value of the request.

The Commissioner's Conclusion

27. The Commissioner has considered the arguments and evidence put forward by the Council.
28. With respect to request 1, he has not seen any evidence to suggest that the request has a deliberate intention to cause annoyance, but he accepts the rest of the arguments made by the Council as to why this request is vexatious as set out in paragraph 22 of this notice.
29. The Commissioner considers that it is clear that the motive for making this request was to avoid paying council tax, which he considers to be an improper use of FOIA, given the obligation to do so is clearly set out in legislation. He therefore considers this request to be vexatious as the value and purpose of the request is very low and therefore does not justify the disruption that would be incurred by complying with it.
30. Regarding the second request, the Commissioner considers that, in general terms there is an inherent public interest in the disclosure of information about the Council's investments, use of limited companies, income generation from the open register and how it is meeting its data protection obligations in relation to the electoral roll, given that this relates to the administration of public money and the personal data of a large number of people.
31. However, given the specific circumstances in which this request was made, the Commissioner considers that the context and history of this request renders it vexatious. This is because, given the complainants themselves have stated when making the request that their reasons for doing so relate to their objections to paying council tax, he accepts the Council's argument that this is a continuation of a pattern of behaviour from the complainants in which they have demonstrated unreasonable persistence and intransigence in relation to the subject of council tax.
32. Within this context, the Commissioner considers that the request lacks serious purpose and that the impact on the Council of complying with the request would therefore be disproportionate.

33. The Commissioner has therefore concluded that the Council was entitled to refuse both requests on the basis of section 14(1) FOIA.

Section 10 - Time for compliance with request.

34. Section 1(1) of FOIA states that:

“Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.”

35. Section 10(1) of FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt”.

36. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the second request for information in accordance with FOIA. The Commissioner finds that the Council has breached section 10(1) by failing to respond to this request within 20 working days.

Right of appeal

37. 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

38. 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.
39. 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

Victoria James
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SK9 5AF