

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 6 May 2015

**Public Authority:** West Lancashire Borough Council  
**Address:** 52 Derby Street  
Ormskirk  
West Lancashire  
L39 2DF

### Decision (including any steps ordered)

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1. The complainant made a freedom of information request to the West Lancashire Borough Council ("the Council") for details of the number of legal notices served by its environmental protection section. The Council refused the request under section 14(1) of FOIA on the grounds that it was vexatious.
2. The Commissioner's decision is that section 14(1) was correctly applied and he requires no steps to be taken.

### Request and response

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3. On 6 November 2014 the complainant made a freedom of information request to West Lancashire Borough Council ("the Council") which read as follows:  
  
*"Under the freedom of information act I request the number of legal notices served by the environmental protection section in the last two years with a breakdown of each notice served."*
4. The Council responded on 19 November 2014 when it said that it would not be complying with the request. It referred the complainant to an email that was sent to him on 14 May 2014 and a letter dated 29 May

2014 which had informed him that previous requests he had made under FOIA were considered to be vexatious.

5. Following the involvement of this Office, the Council agreed to carry out an internal review of its handling of the request and it presented its findings on 7 January 2015. The review confirmed that the request of 6 November was refused under section 14(1) of FOIA and, to the extent that any of the information was found to be environmental, regulation 12(5)(b) of the EIR. It explained the background to the request and the reasons why, taken in context, it was considered to be vexatious.

### **Scope of the case**

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6. The complainant has complained to the Commissioner about the Council's decision to refuse his request by relying on section 14(1).

### **Reasons for decision**

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#### **Section 14(1) – vexatious requests**

7. The Council has refused the complainant's request by relying on section 14(1) of FOIA which provides that a public authority is not obliged to comply with a request for information if it is vexatious.
8. The Commissioner has recently issued guidance on his approach to deciding when a request can be considered vexatious.<sup>1</sup> This follows the decision of the Upper Tribunal in *Information Commissioner and Devon County Council v Dransfield*<sup>2</sup>. The Upper Tribunal found it instructive to assess the question of whether a request is truly vexatious by 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) any harassment or distress of and to staff. However, it also placed emphasis on the

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<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

<sup>2</sup> Information Commissioner vs Devon County Council & Dransfield [2012] UKUT 440 (AAC) (28 January 2013)

importance of adopting a holistic and broad approach to the determination of whether or not a request is vexatious.

9. The Commissioner's guidance suggests that the key question a public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. Where this is not clear, the Commissioner considers that public authorities should weigh the impact on the authority and balance this against the purpose and value of the request. Where relevant, public authorities will need to take into account wider factors such as the background and history of the request.
10. In its response to the complainant the Council has said that it would accept that the complainant's request in isolation is not vexatious. However, it argues that when the context and history of the complainant's communications with the Council is taken into account it clearly is vexatious.
11. It explained that the background to the request was that the complainant was a former member of staff who had been dismissed for gross misconduct. It said that since that time the complainant appeared to have been intent on causing disruption and annoyance to the Council and its staff. In particular it informed the Commissioner that the complainant has been cautioned by the Police following an investigation for harassing a member of the Council's staff.
12. The complainant made his first request to the Council on 15 April 2014 where he stated "a request a day. Po Na Na". He then submitted a further 32 requests on a daily basis between 15 April 2014 and 12 May 2014. This resulted in the Council issuing a refusal notice on 12 May when it said that it considered these requests to be vexatious. There then appears to have been a period of pause until the request he submitted on 6 November 2014 which is the subject of this Decision Notice.
13. The Council provided the Commissioner with a number of examples of what it considered to be the complainant's vexatious behaviour. These are outlined below.
14. Around the same time as submitting his FOI requests, the complainant had been in contact with several services of the Council. He submitted a Subject Access Request under the Data Protection Act 1998 and was provided with large quantities of information. He also made corporate complaints to the Managing Directors and a complaint to the Local Government Ombudsman – none of which were upheld.

15. The Council also suggested that the complainant had acted in what appeared to be a calculated manner to cause difficulties in a sundry debt matter by making his payments in small random amounts, using incorrect references and has accused the Council staff of harassment for contacting him following non-payment of debt. It said that he had also sent a number of malicious emails to staff.
16. It also said that the complainant had made several appointments to attend Council offices to view public registers at times designed to cause disruption but had failed to attend.
17. In making one of his earlier requests the complainant had said "Could you clarify whether it is possible to submit more than 25 FOI requests each month...I have 125 other requests which I intend to submit currently but will be working on others when these run out".
18. Many of the complainant's communications with the Council are derogatory and offensive as well as also suggesting that his aim is to cause disruption to the Council.

"Could you respond in English and Braille in French."

"Can I have a Dutch translation."

"Please provide the information in English and Dutch."

"Advise me of the number of managers who have had their management qualification belittled along the lines of a Mickey Mouse qualification".

"...perhaps not spend it all at once, maybe buy some pieces of silver."  
(when paying a £10 Subject Access Request fee).

"I suggest you painstakingly trawl through them and send me copies...it's amazing what value you get for your money these days."

"how much has the SAR information cost to date to source, process and deliver".

"you are purposely harassing me intentionally because of my ill health you think I am an easy target due to one of the assistant directors having Napoleon Syndrome."

"still homeless and jobless. Benefits are the future".

"you can't really do any more damage. I don't see my wife/kids and more and am unable to work."

19. The Council also considered the purpose of request, whether it had any value and the motive of the complainant. In doing so it said that the complainant appeared to have personal grudges against his former line manager and another member of staff and had made what it said were unfounded accusations against them and the Council. It also suggested that the requests were for the complainant's own amusement in disrupting the authority rather than any serious purpose. It referred to the following from the complainant's earliest set of requests which it said demonstrated this:

"please supply me with the number of energy and non-energy saving light bulbs the Council uses in total."

"under FOI can you confirm how much dealing with my correspondence et al has cost the council so far."

20. Finally, in discussing the burden imposed by the complainant, the Council explained that the complainant's FOI requests combined with his Subject Access requests, his requests to attend the Council offices to view the corporate registers, the internal reviews, corporate complaints, complaints to the Ombudsman and to the ICO were collectively creating a significant burden in terms of expense and distraction and were creating an unjustified level of disruption and distress. It said that in its view such disruption is disproportionate to any public interest or any wider value in disclosing the requested information.
21. The Commissioner has considered the Council's arguments and he has also reviewed copies of the complainant's communications with the Council. From this the Commissioner is satisfied that the intention of the complainant was to cause disruption and distress to the Council. The complainant is clearly motivated by his grievance with the Council which is demonstrated throughout his requests and other communications. The effect of this is to place an unreasonable burden on the Council and cause harassment and distress to its staff.
22. The Commissioner's guidance on vexatious requests which he referred to above lists several indicators which may suggest that a request is vexatious. These include the following which are all present in this particular case.
- Abusive or aggressive language
  - Burden on the authority
  - Personal grudges

- Unreasonable persistence
  - Frequent or overlapping requests
  - Deliberate intention to cause annoyance
  - No obvious intent to obtain information
23. The Commissioner has taken into account the fact that there was a pause of a few months between the complainant making his earlier series of requests and the request which is the subject of this decision notice on 6 November 2014. He is also mindful that just because a public authority has refused earlier requests from a complainant as vexatious, it does not then follow that all subsequent requests from that individual must be vexatious also. A public authority must be able to show that the request rather than the requestor is vexatious and therefore it should consider each request on its merits.
24. However in this particular case the Commissioner is of the view that the request of 6 November 2014 is a continuation of the complainant's earlier pattern of behaviour and seen in that context it is vexatious. Indeed it seems likely that the complainant was waiting for a period of time to elapse from his last request being refused before he could restart his campaign of causing disruption and annoyance. This would appear to be borne out by the fact that the complainant had continually asked the Council how many FOI requests he was permitted to make and over what timescale. There is nothing to suggest that the complainant has altered his behaviour. Indeed, whilst the complainant may have paused from sending FOI requests, he continued to correspond with the Council in the intervening period between the Council refusing his first series of requests and his 6 November 2014 request. This included a number of emails containing derogatory references to the Council and offensive remarks about members of staff. It was also during this period that the complainant made appointments to view Council registers (which were subsequently missed) and submitted Subject Access Requests.
25. The Commissioner has also been made aware that since making his request on 6 November 2014 the complainant made a further 4 requests for information to the Council. The Council has also said that it strongly suspects that the complainant has submitted further requests to the Council using pseudonyms. In the Commissioner's view this all points to the obsessive nature of the complainant's requests and his motivation to continue to cause disruption and annoyance. In the Commissioner's view, were the Council to comply with the complainant's requests this would only lead to him making further requests for information, thereby increasing the burden on the Council. For all these reasons, and taking into account the full circumstances and background to the complaint,

Reference: FS50563398



the Commissioner has decided that the request of 6 November 2014 was vexatious and section 14(1) was correctly applied.

## Right of appeal

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26. 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)

27. 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.
28. 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 .....**

**Pamela Clements  
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Information Commissioner's Office  
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