

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 26 February 2013

**Public Authority:** Blackpool Borough Council  
**Address:** Municipal Building  
Corporation Street  
FY1 1NF

#### Decision (including any steps ordered)

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1. The complainant has requested various information relating to the investigation of a previous complaint about Blackpool Council (the Council) by the ICO. The Council refused the requests under section 14 of the FOIA as they were considered vexatious.
2. The Commissioner's decision is that these requests were vexatious and so section 14 was applied correctly. The Council was not, therefore, obliged to comply with these requests.

#### Request and response

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3. On 9 January 2012, the complainant wrote to the Council and requested information in the following terms:

*"Please provide all internal correspondence or external correspondence used or produced by Blackpool Council before, during or after the ICO's enquiries.*

*Please provide all detail and internal information in relation to the ICO's enquiries including how the enquiries were made, responded to and recorded.*

*Please provide all internal information in relation to the response from Blackpool Council to the ICO including any evidence that corroborated the claims made by the ICO.*

*Please supply all internal information related to actions taken and results achieved as a result of the enquiries from the ICO.*

*Please also supply all external correspondence or internal information relevant in any way to the enquiries from the ICO.*

*Please also include all internal emails, faxes, file notes, letters, scribbled notes, minutes and all other recorded information in relation to these enquiries.*

*Please also include all internal notes and memos, transcriptions of telephone conversations, records of meetings or discussions generated internally as a result of or due to the ICO's enquiries.*

*Please provide all evidence that was supplied to the ICO in order to prove that the claims as raised in the letter were true.*

*Please also provide any information requested by the ICO in order that they could prove that the Council's claims were true.*

*Please also provide the information provided to the ICO in order to substantiate or demonstrate the claims made by the Council to the ICO.*

*Please also provide all information provided to the Council by the ICO.*

*Please also include all other internal information that Blackpool Council knows about or discovers during their consideration of this request."*

4. The Council responded on 2 March 2012. Some of the information requested was disclosed and the Council stated that it did not hold other information. The exemption provided by section 21 of the FOIA was also cited in relation to some of the requests on the basis that the complainant had already been supplied with some of the information requested. The Council also at this stage referred to having issued a "vexatious notice" to the complainant and that it was now "reissuing the vexatious notice to you".
5. The complainant responded on 2 March 2012 and requested the Council to carry out an internal review. When the issue of this internal review was later raised with it by the ICO, the Council stated that it did not intend to carry out an internal review as it believed that the issues that such a review would address had been covered previously through various other information requests, internal reviews, and other correspondence between it and the complainant.

## Scope of the case

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6. The complainant contacted the Commissioner on 26 June 2012 in connection with his 9 January 2012 requests. This correspondence mainly consisted of allegations that the Council had committed an offence under section 77 of the FOIA. These allegations were investigated separately and are not covered in this notice. The complainant did also refer in this letter to his correspondence of 2 March 2012 and to the failure of the Council to carry out an internal review.
7. The ICO contacted the Council on 22 August 2012 in connection with the lack of an internal review response. As referred to above, the Council responded to this on 28 August 2012 and stated that it was unwilling to carry out an internal review.
8. The complainant was contacted on 31 October 2012 in order to clarify the scope of what it would be possible to cover in this case, which was that this could address whether the response to the above requests was compliant with the FOIA. The complainant responded to this on 1 November 2012 and confirmed that he did wish this case to be taken forward.
9. In correspondence with the ICO the Council confirmed that its stance in relation to the above requests was that these were vexatious and so the Council believed that section 14 applied and it was not obliged to comply with these requests. The analysis in this notice concerns whether the Council was entitled to rely on section 14 in relation to the above requests.

## Background

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10. The complainant's correspondence with the Council began with concerns relating to investigations carried out into the theft of overhead wire from the Blackpool tram system. The complainant had previously made information requests to the Council and subsequently complained to the Commissioner's office about the responses to these requests.
11. The complainant later made a request to the ICO for information relating to the investigation of his complaint. Amongst the information disclosed to the complainant in response to this information request was documentation that the complainant believed should have previously been supplied to him by the Council.

12. The Council provided an explanation to the complainant as to why that document had not been disclosed to him, but the complainant was dissatisfied with this explanation. Further to this, the complainant made the requests set out above.

## Reasons for decision

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### Section 14

13. Section 14 of the FOIA provides that a public authority is not obliged to comply with an information request that is vexatious. The task for the Commissioner here is to consider whether the Council accurately characterised the above requests as vexatious. An important point about section 14 is that it must be the *request* that is vexatious, not the requester.
14. The Commissioner's published guidance on section 14<sup>1</sup> specifies five factors for public authorities to take into account when considering refusing a request as vexatious.
  - i. Whether compliance would create a significant burden in terms of expense and distraction.
  - ii. Whether the request is designed to cause disruption or annoyance.
  - iii. Whether the request has the effect of harassing the public authority or its staff.
  - iv. Whether the request can otherwise fairly be characterised as obsessive or manifestly unreasonable.
  - v. Whether the request has any serious purpose or value.

The analysis in this notice will cover which of these five factors apply.

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[http://www.ico.gov.uk/for\\_organisations/guidance\\_index/~/\\_media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/vexatious\\_and\\_repeated\\_requests.ashx](http://www.ico.gov.uk/for_organisations/guidance_index/~/_media/documents/library/Freedom_of_Information/Detailed_specialist_guides/vexatious_and_repeated_requests.ashx)

**Would compliance with the requests create a significant burden?**

15. The Council argued that the volume of requests and related correspondence imposed a significant burden on it. The approach of the Commissioner is that where a public authority is primarily concerned with the cost of compliance with a request, or series of requests, it is more appropriate for it to cite section 12. However, where a public authority is concerned about a burden imposed in terms of both cost and distraction from its core business, this may be relevant to section 14.
16. In this case the Council has supplied to the Commissioner's office a spreadsheet detailing the volume of requests made by the complainant, and also related correspondence pursuing the same issues. This spreadsheet shows that the complainant made 23 information requests during the period March 2010 until the date of the request in this case. It also shows that there was numerous other correspondence received by the Council from the complainant during this period. All of these requests and other correspondence stemmed from the complainant's original issue relating to the theft of overhead tram cable, which then in turn led to the ICO enquiries described above.
17. The Commissioner believes that this volume of requests and other correspondence is indicative of a pattern in the behaviour of the complainant whereby each response received by the complainant from the Council leads to more requests and other related correspondence. Within the context of the volume of previous requests and other correspondence received by the Council from the complainant, and the likelihood that a response to the requests in this case would, rather than resolving this matter, lead to further requests and correspondence, the view of the Commissioner is that these requests do pose a significant burden upon the Council. This burden is in the form of time spent on dealing with the complainant and results in distraction from the core work of the Council.

**Were the requests designed to cause disruption or annoyance?**

18. This factor will apply where the request is purposefully designed to cause disruption or annoyance; it will not apply where this is an unintended consequence of the request. In this case the Council has acknowledged that this was not the purpose of the complainant and so has not argued that this factor applies.

**Do the requests have the effect of harassing the public authority or its staff?**

19. The Council argued that the volume of the requests and related correspondence had now reached the stage where this was harassing to it. It indicated that the complainant had been advised that it held no further information of relevance to his requests and viewed his continued making of requests despite this as harassment.
20. It also argued that the complainant's requests had the effect of harassing a particular staff member. The Council referred to comments made by the complainant in other correspondence about this staff member that had caused distress to that individual.
21. The Commissioner agrees that the complainant's requests are harassing to the Council. As covered above, these requests follow a large number of previous requests and related correspondence stemming from the same initial issue. These requests and correspondence are frequently overlapping; the complainant repeatedly raises the same or similar issues after these have been addressed previously. There is also little indication that there is any response that the Council could provide that the complainant would be sufficiently satisfied with that this would result in his desisting from corresponding with the Council in relation to the same issue.
22. As to whether these requests have the effect of harassing the individual staff member named by the Council, whilst this individual is not named in the requests, the wider context is also relevant here. In the correspondence in which the complainant requests an internal review, the complainant does name this individual and makes an allegation of misconduct on the part of that individual. The Commissioner understands that this is not the only example of where the complainant has made allegations about that individual. Given the mention of this individual in the internal review request, it is reasonable to conclude that the complainant believed that the information he was requesting related to those allegations. The Commissioner accepts, therefore, that the requests do have the effect of harassing that individual, despite not explicitly relating to that individual.

**Can the requests fairly be characterised as obsessive or manifestly unreasonable?**

23. The Council argued that the requests are obsessive in view of their context, but did not detail why it believed this to be the case. Its only representation on this point was to compare the requests in this case with examples given in the aforementioned ICO guidance.

24. The main point that the Council appeared to be making here was that the complainant had been provided with the information requested in this case previously in response to information requests made to the ICO. The view of the Commissioner here is that it is possible that the Council could hold further information to that previously disclosed to the complainant by his office, so does not accept that this is a sufficient basis alone upon which to conclude that the requests are obsessive.
25. Instead the Commissioner believes that a stronger argument on this point can be made by again referring to the history of the complainant's correspondence with the Council. The view of the Commissioner is that this suggests that the complainant has pursued his issue with the Council beyond what could be considered to be a reasonable extent. That he continues to pursue this with no sign that he is likely to reach the stage of being satisfied and desisting from this pursuit indicates that these requests can be characterised as obsessive.

**Do the requests have any serious purpose or value?**

26. The argument advanced by the Council here again relates to disclosures made to him in response to previous information requests. The Commissioner, however, believes that it is more relevant to consider what the complainant could reasonably expect to achieve through disclosure of this information.
27. As has already been covered, the complainant's correspondence with the Council stemming from the initial issue of the theft of cable is now numerous. Whilst it is not entirely clear what he intends to achieve through his continued requesting, the Commissioner assumes that he believes that this will result in the disclosure of something that will exonerate his continued pursuit of these issues beyond the point that most would consider reasonable.
28. Given the volume of previous requests and other related correspondence, the Commissioner does not regard it as reasonable for the complainant to continue to hold the belief that something significant may be revealed through his continued requesting. For these reasons, the Commissioner does not believe that these requests have any serious purpose or value.

**Conclusion**

29. The Commissioner has found that four of the five factors set out above are met. Whilst one of these factors is not met as the Commissioner does not believe that the complainant set out to make vexatious requests, his view is that the wider pattern of the complainant's

behaviour means that the requests in this case have gone beyond what could be regarded as legitimately persistent and has become vexatious.

30. In this context the Commissioner concludes that the complainant's requests were vexatious. The Council was not, therefore, obliged to comply with these requests.



## Right of appeal

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31. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

32. 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.
33. 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 .....**

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**