

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 August 2022

Public Authority: Thanet District Council
Thanet DC, PO Box 9, Margate, CT9 1XZ
(Email: foisupport@thanet.gov.uk)

Decision

1. Thanet District Council refused the complainant's 13 January 2021 information request as having been vexatious. Thanet District Council did not demonstrate that the request was vexatious and was therefore not entitled to rely on the section 14(1) FOIA (Vexatious requests) exemption. Accordingly the Commissioner required Thanet District Council to provide a fresh response to the request that does not rely on section 14(1) FOIA.

Request and response

2. On 13 January 2021 the complainant made the following information request to Thanet District Council (TDC):
"Please tell me whether or not [a named councillor - name redacted] is a party to any form of agreement with Thanet Council which may restrict his freedom of expression [personal information redacted] with the council e.g. a non-disclosure agreement, compromise agreement, settlement agreement etc."
3. TDC relied on the section 14(1) FOIA exemption and decided that the request was vexatious and so it did not respond to it.

Reasons for decision

4. This reasoning covers the application of the section 14(1) FOIA exemption to the 13 January 2021 request and whether TDC was entitled to refuse the request.
5. The position of TDC is that it considered the request to be vexatious and likely to cause a disproportionate and unjustifiable level of distress, disruption and irritation to TDC.
6. TDC considered the request to be inappropriate and an improper use of a formal procedure. In response TDC provided quotations from relevant guidance but did not relate them to the facts of the matter and the conduct of the complainant.
7. The position of the complainant is that he is an accredited journalist with an interest in TDC matters and is reporting, in the public interest, the conduct of TDC and its' democratic accountability and transparency.
8. The Commissioner considered whether the request was vexatious in being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA. He had regard for: the burden on TDC, the motive of the requester, the value of the request and any harassment or distress caused.
9. The Commissioner saw that, in its responses, TDC did not engage with the request or the requester and did not relate its quotations from relevant guidance to the facts of this matter. The complainant reports on TDC activities and says he makes concise, focused information requests; TDC has not previously refused a request from the complainant as vexatious. The Commissioner saw merit in TDC being transparent and accountable in its activities so the request had value in seeking to achieve that. TDC stated that the requester had previously made allegations against the council, but has provided no detail or evidence of such harassment or distress having been caused by this request.
10. The Commissioner decided that TDC did not demonstrate that the request was vexatious and was therefore not entitled to rely on the section 14(1) FOIA exemption. Accordingly the Commissioner requires TDC to provide a fresh response to the request that does not rely on section 14(1) FOIA.

Right of appeal

11. 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@justice.gov.uk

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

12. 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.
13. 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

Dr R Wernham
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF