

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 May 2022

Public Authority: Medway Council
Address: Gun Wharf
Dock Road
Chatham
Kent
ME4 4TR

Decision (including any steps ordered)

1. The complainant has requested information from Medway Council regarding taxation.
2. The council refused to comply with the request, citing section 14(1) (vexatious requests) of the FOIA.
3. The Commissioner's decision is that the request was vexatious and therefore the council was entitled to rely upon section 14(1) to refuse it.
4. The Commissioner does not require any steps.

Request and response

5. On 15 April 2021 the complainant requested information from Medway Council ("the council") in the following terms:

"Please accept this as a formal Freedom of Information request, made under The Freedom of Information Act 2000, for the following information that you ought to have on public record:

1. Who is Medway Council?

2. On what basis does Medway Council derive its authority to impose a tax [mandatory or otherwise], if it is a private corporation operating in commerce [D-U-N-S number 210389746]?

3. Confirm the registered VAT number for Medway Council.

4. On what basis is Medway Council accessing, processing, and storing specific personal data and information about the inhabitants, and what legitimate interest does it have for doing so, if it is a private corporation operating in commerce [D-U-N-S number 210389746]?

5. On what basis does Medway Council believe taxation is a "legal requirement"?

6. On what basis does Medway Council believe taxation is "mandatory"?

7. On what basis does Medway Council believe taxation is a "mandatory obligation"?

8. On what basis does Medway Council believe "liable" is mandatory?

9. On what basis does Medway Council believe it is able to enforce a liability?

10. Does Medway Council have evidence for power of attorney over living men and women and / or the legal fiction(s) to whom it addresses for Council Tax demands?

11. Does Medway Council have any evidence for compulsory obligation on the inhabitants to "pay" Medway Council for Council Tax?

12. Is Medway Council able to confirm it is compliant with Article 22 of GDPR (transparency for automated decisions) in relation to Council Tax and if it is a decision based solely on automated processing, please explain how the amount of council tax calculated is, a fair, just, and

reasonable, voluntary contribution to actual council services is rendered.

13. Please provide the actual full profit and loss accounting in respect to all the following:

- a) All pension funds and ALL investments using the proceeds of Council Tax.
- b) Enforcing tax liabilities and charges including court charges minus appeals and damages incurred.
- c) Enforcing all policies of Medway Council upon the local community.
- d) Enforcing evictions for non-payment of tax/arrears upon the local community."

6. The council responded on 18 May 2021 and refused to provide the requested information. It cited the exemption at section 14 of the FOIA (vexatious request). The council gave the following justification:

"The council is of the opinion that your requests are:

A. **Part of a coordinated campaign:** There is an unusual pattern of requests, a number have been submitted by several individuals, in a relatively short space of time that are identical/similar. This evidences that there is an intention of causing disruption to the Council.

The aggregated impact of dealing with the number of requests received would cause a disproportionate and unjustified level of disruption and/or irritation.

B. **Unfounded accusations:** The requests make completely unsubstantiated accusations against the public authority.

Your requests appear to be challenging the council's statutory obligation to collect council tax and the use of those funds. The collection of Council tax and the distribution of the funds is set in UK Law which is laid down by Central Government.

C. **Burden on the authority:** The effort required to meet the requests will be so grossly oppressive in terms of the strain on time and resources, that the authority cannot reasonably be expected to comply."

7. The complainant wrote to the council and expressed dissatisfaction with the response on 27 May 2021.

8. On 27 July 2021 the council wrote to the complainant with the outcome of an internal review in which it upheld its decision to refuse the request on the basis of section 14 of the FOIA. It also advised:

"I have reviewed your requests and compared them with those received from other members of the public. These requests and subsequent correspondence appear to have more than a similarity in nature and are almost identical in word and phrase. Therefore, I am upholding the decision that these requests are part of a coordinated campaign.

The accusations made against the council including those regards the use of funds collected through Council Tax are without substance nor evidence. As was explained to you in the council's response, the council is instructed by Central Government to collect these funds and distribute them to organisations which provide services to your household and others in the region.

If you would like to know more about how and where your council tax is spent, please refer to the council's website searching 'What your Council Tax pays for', or at the following link:

https://www.medway.gov.uk/info/200131/council_tax/36/understanding_your_council_tax_bill "

Scope of the case

9. The complainant contacted the Commissioner on 11 June 2021 to complain about the way their request for information had been handled. Specifically they dispute the refusal of the request on the basis of the exemption at section 14 of the FOIA.
10. The scope of this case is to determine whether the council was correct to refuse to comply with the request on the basis of section 14.

Reasons for decision

Section 14 - vexatious request

11. Section 14(1) of FOIA states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious. There is no public interest test.
12. The term 'vexatious' is not defined in FOIA. The Upper Tribunal considered the issue of vexatious requests in the case of the Information Commissioner v Devon CC & Dransfield. The Tribunal commented that

vexatious could be defined as the: "manifestly unjustified, inappropriate or improper use of a formal procedure". The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.

13. In the Dransfield case, the Upper Tribunal also 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 authority and its staff), (2) the motive of the requester, (3) the value or serious purpose of the request and (4) harassment or distress of and to staff.
14. The Upper Tribunal did, however, also caution that these considerations were not meant to be exhaustive. Rather, it stressed the: "...importance of adopting a holistic and broad approach to the determination of whether a request is vexatious or not, emphasising the attributes of manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterises vexatious requests" (paragraph 45).
15. The Commissioner has published guidance on dealing with vexatious requests¹. That guidance includes a number of indicators that may apply in the case of a vexatious request. The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of the case will need to be considered in reaching a judgement as to whether or not a request is vexatious.
16. As discussed in the Commissioner's guidance, the relevant consideration is whether the request itself is vexatious, rather than the individual submitting it. However, a public authority may also consider the context of the request and the history of its relationship with the requester when this is relevant.
17. In that respect, the Commissioner's guidance states: "The context and history in which a request is made will often be a major factor in determining whether the request is vexatious, and the public authority will need to consider the wider circumstances surrounding the request before making a decision as to whether section 14(1) applies".
18. The Commissioner's guidance on section 14, also states: "If a public authority has reason to believe that several different requesters are acting in concert as part of a campaign to disrupt the organisation by

¹ [Dealing with vexatious requests \(section 14\) | ICO](#)

virtue of the sheer weight of FOIA requests being submitted, then it may take this into account when determining whether any of those requests are vexatious”.

The complainant's view

19. The complainant states that the questions raised under the FOI were not vexatious, regardless of any similarity to requests made by other persons.

The council's position

Purpose and value

20. The council argued that the request is part of a coordinated campaign, the purpose of which is to avoid paying council tax. It provided the Commissioner with the following information in support of this view:
 - There is an unusual pattern of requests. A number of identical or similar requests were submitted by several individuals, in a relatively short space of time. The council provided evidence for five individuals.
 - The council compared the request with those received from other members of the public. The requests and subsequent correspondence have more than a similarity in nature and are almost identical in word and phrase.
 - The correspondence received from all involved in this current campaign are similar to the types of correspondence the council receives on an occasional basis, usually around the time that the annual council tax notices are sent out.
 - The council explained “They are often referred to as freeman of the land, magna carta, Notice of Lawful Objection. All of which are attempts to avoid liability for Council Tax, none of these are binding on the council and most of them rely on either fictional or superseded legal concepts that the writers have found on the internet.”
 - The requests make unsubstantiated accusations against the council. They appear to be challenging the statutory obligation to collect council tax and the use of those funds.
 - The council is of the opinion that this campaign is intended to cause disruption in an attempt to avoid payment of council tax and will serve no real purpose.

21. The council stated that in addition to the complaints to the Information Commissioner the complainant had:
- Made a claim directly to Medway County Court relating to their Council Tax and a Subject Access Request ("SAR"). The council applied to the court to strike out the claim as it had been brought in the wrong Court. The Court agreed and struck out the claim.
 - Submitted a further claim against Medway Council to the County Court Money Claims Centre for damages and compensation of £2000 plus the court fee, for non-compliance with this FOIA request and the SAR, this is currently ongoing.
22. The council advised that it was referring to the above court matters as further evidence regarding why the council considers that the request is intended to cause disruption in an attempt to avoid payment of council tax.

Details of the detrimental impact of complying with the request

23. The council stated that whilst it may chose to ignore some of the correspondence from the individuals, it is required to answer the FOIA requests. It stated that:
- The council has limited funds and resources to carry out its duties.
 - The aggregated impact of dealing with the number of requests received would cause a disproportionate and unjustified level of disruption and irritation.
 - The effort required to meet the requests is grossly oppressive in terms of the strain on time and resources.
 - Whilst there is an obligation to be open and transparent, the council does not believe it is the public interest to redirect resources to process the requests submitted via such a campaign, when those resources can be put to use serving the public in other more vital aspects of the services it provides.
 - The accusations made against the council including those regarding the use of funds collected through council tax are without substance nor evidence.

The Commissioner's view

24. In his guidance on dealing with vexatious requests, the Commissioner recognises that FOIA was designed to give individuals a greater right of access to official information with the intention of making public bodies

more transparent and accountable. Therefore, engaging section 14(1) is a high hurdle.

25. Most people exercise their right of access responsibly. However, a few may misuse or abuse FOIA by submitting requests which are intended to be annoying, disruptive or have a disproportionate impact on a public authority.
26. 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.
27. As his guidance explains: "Although satisfying section 14(1) is a high hurdle this does not mean you can apply it in the most extreme circumstances, or as a last resort. You should consider using it, after taking account of all the circumstances, you believe the request is disproportionate or unjustified".

Was the request vexatious?

28. The council has argued that the motive behind the complainant's requests is to disrupt the council and avoid paying council tax. It has provided evidence that this is part of a campaign.
29. The Commissioner observes that the questions raised do not appear to have a value or serious purpose in terms of there being an objective public interest in the information sought.
30. Whilst there is a general public interest in transparency and accountability surrounding public authorities, the Commissioner does not believe that disclosure would serve to prompt, or further, any worthwhile public understanding or debate.
31. The Commissioner concurs that the nature of the request, and the questions posed, are indicative of the complainant's position regarding the payment of council tax. He therefore considers that the complainant is using the FOIA inappropriately to raise arguments with the council.
32. Revisiting the themes of vexatiousness within the Dransfield case, the Commissioner is satisfied that the complainant's motives behind this request are to further a personal campaign against the council.
33. Balancing these factors against the little value and purpose that the request appears to represent, the Commissioner deems the high bar contained within section 14(1) is met.

34. The Commissioner believes that the request was vexatious and therefore the council was entitled to rely on section 14(1) of the FOIA to refuse the request in its entirety.

Right of appeal

35. 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

36. 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.
37. 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

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