

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 10 January 2017

**Public Authority:** North East Lincolnshire Council

**Address:** Municipal Offices  
Town Hall Square  
Grimsby  
DN31 1HU

#### Decision (including any steps ordered)

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1. The complainant has made six requests to North East Lincolnshire Council ("the Council") for varied information relating to the administration of Council Tax. The Council refused to comply with the requests under section 14(1) of the Freedom of Information Act ("the FOIA").
2. The Commissioner's decision is that the Council has correctly applied section 14(1).
3. The Commissioner does not require the public authority to take any steps.

#### Request and response

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4. The complainant submitted the requests between 19 May 2016 and 13 July 2016. Each request was refused by the Council under section 14(1). These requests are recorded in Annex A.

#### Scope of the case

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5. The complainant referred the requests to the Commissioner on different dates during July 2016, and four different case reference numbers came to be issued and ascribed. Notwithstanding this, all six requests will be addressed in this decision notice.

6. The Commissioner considers the scope of this case to be the determination of whether the Council has correctly applied section 14(1) to the requests.

## Reasons for decision

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### Section 14(1) – Vexatious requests

7. Section 14(1) states that:

*Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.*

8. The Commissioner has published specific guidance on vexatious requests<sup>1</sup>. As discussed in the Commissioner's guidance, the relevant consideration is whether the request itself is vexatious, rather than the individual submitting it. Sometimes it will be obvious when requests are vexatious, but sometimes it may not. In such cases it should be considered whether the request would be likely to cause a disproportionate or unjustified level of disruption, irritation or distress to the public authority. This negative impact must then be considered against the purpose and public value of the request. A public authority can also consider the context of the request and the history of its relationship with the requester when this is relevant.

### The complainant's position

9. The complainant alleges that the Council has fraudulently obtained a Liability Order against him by committing perjury, and that the police, Local Government Ombudsman, and courts are complicit in this through failing to take action when notified.
10. The complainant has recently made a formal complaint to the Council, to which the Council has responded that it has found no evidence of fraudulent activity and that no further correspondence would be entered into on the subject. The complainant believes that this investigation by the Council was not conducted properly, and that if the Council had found evidence to refute his claims of fraudulent activity, it would have taken more robust action against his allegations.

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

11. The complainant's requests seek a range of information relating to:
- Previous actions the Council has taken against individuals who have made unsubstantiated allegations of perjury.
  - The Council's management of Council Tax collection, and internal investigations relating to misconduct.
  - Specific officers involved in audit and assurance.

#### The Council's position

12. The Council states that since 2011 the complainant, either directly or by using the pseudonym '*fFaudwAtch UK*', has submitted multiple requests to the Council regarding the administration of Council Tax. These requests have recently extended to specific Council officers who have been involved in considering the complainant's correspondence, or are otherwise involved in Council Tax administration.
13. The Council considers that the six requests form part of a concerted campaign to frustrate and challenge the Council's effective administration of Council Tax, and has referred the Commissioner to the inclusion of opinions and allegations within the requests that appear to challenge the legitimacy of the Council's actions.
14. The Council argues that there are already appropriate processes in place for the complainant to challenge the Council's actions in respect of Council Tax, either through the Local Government Ombudsman or by challenging a Liability Order in court. The Council has referred to Commissioner to a previous decision notice (FS50600411) in which the Commissioner recognised that there were well established means by which individuals could dispute a demand for Council Tax.
15. The Council has offered to arrange a meeting with the complainant in order to discuss his concerns, but this has not been accepted. The Council also argues that when the complainant submits correspondence to the Council in relation to his concerns, he then seeks updates by making public information requests through the *whatdotheyknow.com* website, which places additional burden upon the Council. An example of this has been the complainant's submitting of a query to the Council's Monitoring Officer, and within 24 hours submitting a request for information about any actions or progress undertaken so far. In response to this the Council has referred the complainant to the Commissioner's own guidance to requestors about the purpose and terms of the FOIA.

#### The Commissioner's conclusion

16. Firstly, the Commissioner would like to highlight that there are many different reasons why a request may be vexatious, as reflected in the Commissioner's guidance. There are no prescriptive 'rules', although there are generally typical characteristics and circumstances that assist in making a judgement about whether a request is vexatious. A request does not necessarily have to be about the same issue as previous correspondence to be classed as vexatious, but equally, the request may be connected to others by a broad or narrow theme that relates them. A commonly identified feature of vexatious requests is that they can emanate from some sense of grievance or alleged wrong-doing on the part of the authority.
17. The Commissioner's guidance has emphasised that proportionality is the key consideration for a public authority when deciding whether to refuse a request as vexatious. The public authority must essentially consider whether the value of a request outweighs the impact that the request would have on the public authority's resources in responding to it. Aspects that can be considered in relation to this include the purpose and value of the information requested, and the burden upon the public authority's resources.

*The purpose and value of the requests*

18. The Commissioner understands that the requests under consideration have been made as part of an extended dispute between the complainant and Council that relates to the Council's administration of Council Tax, and specifically a Liability Order that the courts have issued against the complainant. It is understood that the Council, in addition to the police, Local Government Ombudsman, and courts, have considered the complainant's concerns and found that no further action is warranted.
19. In this scenario, it is reasonable for the Commissioner to interpret the requests as relating to a private interest that is being pursued by the complainant. It is also reasonable for the Commissioner to note that there are already routes of appeal in place through which individuals can contest matters relating to Council Tax. Alternatively, if these routes of appeal have already have been pursued and exhausted by the complainant, the Commissioner must logically conclude that the matter has already been considered by the public authorities with responsibility to do so, and that the requests have been made in order to further express dissatisfaction with the outcome.

*The burden on the Council*

20. The Commissioner recognises that the six requests have taken place against a significant context of other requests and correspondence that is understood to have begun in 2011, and which relates to the

complainant's dispute about Council Tax. Whilst the Council's submission has not provided specific arguments for burden, it is noted that responding to the requests would clearly require public resources to be expended. The Commissioner also recognises that it is reasonably likely that compliance would generate further requests and associated correspondence.

*The Commissioner's conclusion*

21. There is limited evidence available to the Commissioner that suggests the requests serve a clear public value. The complainant's concerns have been considered and concluded by the Council, and no further action appears to have been deemed as necessary following independent scrutiny by the police, Local Government Ombudsman, or courts. Although it is recognised that the complainant remains in dispute with the Council, the Commissioner does not consider it appropriate that the rights provided by the FOIA should be used to force continued engagement from the Council on a matter that has seemingly been comprehensively addressed.
22. The Commissioner further recognises that compliance with the requests would divert and consume limited public resources and impact the Council's ability to respond to legitimate requests. Having considered the value and purpose of the requests, there is no clear indication that this would be warranted.
23. On this basis the Commissioner must conclude that section 14(1) has been correctly applied to the requests.

## Right of appeal

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24. 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)

25. 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.
26. 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 .....

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

## Annex A

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### Request 1 (Council reference 2095-1617)

27. On 19 May 2016 the complainant requested:

*Re, "Response: The document was produced by the Debt Management section of the Local Taxation and Benefits Team in North East Lincolnshire Council. We can confirm that it was signed by [redacted name], on behalf of North East Lincolnshire Council, as true to the best of his knowledge and belief."*

*Who was the officer responsible for producing content within the witness statement who knew that what was stated was untrue?*

28. The Council refused the request under section 14(1) on 26 May 2016. The complainant requested an internal review on 26 May 2016. The Council provided the outcome of this on 12 July 2016; it maintained its position.

### Request 2 (Council reference 2327-1617)

29. On 27 June 2016 the complainant requested:

*[redacted name], North East Lincolnshire Council's Solicitor and Monitoring Officer implied a threat in an email sent 18 May 2016 concerning fraud and perjury, his correspondence contained the following:*

*[redacted URL]*

*"You will no doubt appreciate that making allegations including perjury which are found to be unsubstantiated and/or not evidenced is itself a serious matter."*

*[redacted name], Head of Audit and Assurance, Northern Lincolnshire Business Connect has since concluded that the allegations were unsubstantiated.*

*What does North East Lincolnshire Council hold on record with regard to taking action against the accuser in the serious matter of making allegations including perjury which have been found to be unsubstantiated?*

30. The Council refused the request under section 14(1) on 6 July 2016. The complainant requested an internal review on 6 July 2016. The Council provided the outcome of this on 7 July 2016; it maintained its position.

Request 3 (Council reference 2356-1617)

31. On 29 June 2016 the complainant requested:

*Please disclose completed Council Tax CIPFA benchmarking club questionnaires for all years since 2008 to present.*

32. The Council refused the request under section 14(1) on 8 July 2016. The complainant requested an internal review on 8 July 2016. The Council provided the outcome of this on 12 July 2016; it maintained its position.

Request 4 (Council reference 2367-1617)

33. On 1 July 2016 the complainant requested:

*Please disclose whether [redacted name], Head of Audit and Assurance, Northern Lincolnshire Business Connect is an employee of North East Lincolnshire Council.*

*If so please disclose the cost to taxpayers of this employment.*

*If not an employee of the Council and the service he provides is contracted out then I would like that cost to the taxpayer in respect of the contract.*

34. The Council refused the request under section 14(1) on 6 July 2016. The complainant requested an internal review on 6 July 2016. The Council provided the outcome of this on 7 July 2016; it maintained its position.

Request 5 (Council reference 2427-1617)

35. On 5 July 2016 the complainant requested:

*See content of relevant correspondence.*

*[redacted URL]*

*[redacted URL]*

*[redacted name], head of Audit and Assurance makes the statement below in response to allegations that the council made a false statement to the court to seek permission to enforce unpaid Council Tax which wasn't outstanding.*



*"It has been concluded that the actions taken by officers regarding your Council Tax account were correct based on the information and correspondence made available to them at the time... "*

*The above implies that the council, although aware now, were not at the time that the statement it submitted to the court was untrue.*

*Nevertheless, the council continues taking steps to recover the sum, perhaps because it deems ultimately it to be the judge's responsibility for granting permission and therefore madness not to exploit it (around £500 unwarranted court costs and bailiff fees added to date).*

*Q1. What information does the council hold regarding its policy in dealing with the accounts of Council Taxpayers against whom a court order to enforce has been obtained when subsequently it has become apparent that the application should not have been made.*

*Q2. Is there a statutory provision available for the council to have an order set aside (or similar) and if so under what Act or Regulations does that provision fall.*

*Q3. Please state the number of times the council has set aside a court order (if that provision exists) to enforce Council Tax.*

36. The Council refused the request under section 14(1) on 8 July 2016. The complainant requested an internal review on 12 July 2016. The Council provided the outcome of this on 12 July 2016; it maintained its position.

Request 6 (Council reference 2461-1617)

37. On 13 July 2016 the complainant requested

*I refer to North East Lincolnshire Council's Annual Fraud Report 2015/2016 in which it states the following:*

<https://www.nelincs.gov.uk/wp-content/up...>

*"...Two employees have been dismissed for misconduct, although it should be noted that Internal Audit had a relatively a small role within this wider investigation. In seven cases there was either no case to answer or insufficient evidence to pursue the investigation further; "*

*I would like disclosing;*

- 1. the period the above investigations into allegations of fraud were carried out, for example April 2015 to April 2016.*

- 2. whether correspondence [redacted URL] dated 21 April sent to the council referred to in this response [redacted URL] was included in the in the seven cases referred to in the report and if so did it relate to the two employees who were dismissed for misconduct.*
  - 3. A brief description of all the matters investigated and/or link to relevant reports*
38. The Council refused the request under section 14(1) on 13 July 2016. The complainant requested an internal review on 14 July 2016. The Council provided the outcome of this on 14 July 2016; it maintained its position.