

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 December 2014

Public Authority: Isle of Anglesey County Council

Address: Council Offices

Llangefni

Anglesey

LL77 7TW

Decision (including any steps ordered)

1. The complainant requested general information about council tax and specific information about actions taken in relation to non-payment of council tax at a particular property. The Isle of Anglesey County Council ('the Council') provided some information but refused to provide some personal data requested. In its internal review response the Council stated that it considered the request to be vexatious and/or repeated. During the course of the Commissioner's investigation, the Council confirmed that it considered the request to be vexatious and as such section 14(1) of the FOIA applied. The Commissioner's decision is that the Council has correctly applied section 14(1) of the FOIA to the request. He does not require any steps to be taken.

Request and response

2. On 26 August 2013, the complainant wrote to the Council regarding his appearance at Holyhead Magistrates Court on 22 August 2013 for non-payment of council tax and requested information in the following terms:
 - "1. The names of the two officers who interrogated me.
 2. The academic qualifications – first degree (or first degree equivalents), the class and subject. Second degrees and the subject(s).
 3. The professional qualifications of the two officers.
 4. A copy of the Council Minute authorizing the proceedings against me.

5. If the action was taken on delegated powers, a copy of the Council Minute giving officers those powers and the name and the academic professional qualification (as above) of the officer who instructed the summons to be issued.
 6. A copy of the statutory notices and procedures that the Council is required to comply with in setting the Council Tax.
 7. A copy of the 'proof of postage' in relation to the apparent re-issuing of the Notice to Pay Council Tax.
 8. A copy of the Notice stating that I should pay Council Tax, which I am told was sent after the one that said I did not".
3. The Council responded on 1 November 2013 and provided information relating to parts 1, 4, 5, 6, 7, and 8 of the request, but refused to provide the information relevant to parts 2 and 3 of the request, as to do so would "breach the first data protection principle" [of the Data Protection Act 1998].
 4. On 19 April 2014 the complainant wrote to the Council and referred to an internal review request that he believed he had sent to the Council sometime in November 2013. As he had been unable to find a copy of this communication, he repeated his request for an internal review of the Council's handling of the request of 26 August 2013.
 5. The Council provided the outcome of its internal review on 7 May 2014 introducing section 14 (vexatious requests) as a reason for not responding further.

Scope of the case

6. The complainant contacted the Commissioner on 1 June 2014 to complain about the way his request for information had been handled
7. During the course of the Commissioner's investigation the Council confirmed that it considered the request to be vexatious and therefore section 14(1) of the FOIA applies
8. The Commissioner considers this complaint to be whether the Council correctly applied section 14(1) to the request of 26 August 2013.

Reasons for decision

Section 14 – Vexatious requests

9. 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.
10. The term 'vexatious' is not defined in the legislation. In *Information Commissioner vs Devon County Council & Dransfield*¹, the Upper Tribunal took the view that the ordinary dictionary definition of the word vexatious is only of limited use, because the question of whether a request is vexatious ultimately depends upon the circumstances surrounding that request. The Tribunal concluded that 'vexatious' could be defined as the "...manifestly unjustified, inappropriate or improper use of a formal procedure" (paragraph 27). The decision clearly establishes that the concepts of 'proportionality' and 'justification' are central to any consideration of whether a request is vexatious.
11. 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 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. 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 characterise vexatious requests"
(paragraph 45).
12. The Commissioner has identified a number of "indicators" which may be useful in identifying vexatious requests. These are set out in his published guidance on vexatious requests². 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 a case will need to be considered in reaching a judgement as to whether a request is vexatious.

¹ UKUT 440 (AAC) (28 January 2013)

² http://www.ico.org.uk/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx

13. The Commissioner has therefore considered whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress in relation to the serious purpose and value of the request.

The Council's position

14. The Council provided some background information about the context and history of contact with the complainant. The Council stated that the complainant is a "prolific and frequent correspondent with the Council on a number of issues, some of which are, or become, access to information requests, and some are complaints and grievances". In addition, the Council considers that, to a reasonable and objective person, some of the issues which he complains about are anodyne and petty. As an example, the complainant wrote to the Council's Chairman to complain that a letter addressed to "The Occupier" had been sent to a property he owns.
15. The request in this particular case is linked to a demand for council tax for a particular property, non payment of which resulted in the complainant appearing at Holyhead Magistrates Court in August 2013. Up to April 2013 the property had been awarded a particular exemption from payment of Council Tax. The Council had issued a notice to this effect on 25 March 2013 stating that no council tax was payable. However, due to a change in circumstances the property ceased to qualify for the council tax exemption from 16 April 2013, and the Council issued a new council tax notice for the year 2013/2014 on 3 April 2013. As no payment was received, a reminder notice was issued on 17 June 2013 for the May and June instalments, followed by a final notice on 3 July 2013. The final notice stated that, as a result of non-payment the right to pay by instalments was no longer available and the full balance was due. The final notice also explained that the next course of action would be a court summons for non-payment of council tax. On 5 August 2013, a summons for the complainant to appear in Holyhead Magistrates court on 22 August 2013 was issued. The complainant attended court on 22 August 2013 and the Court concluded that he was liable for payment of council tax and made a Liability Order against the complainant in respect of payment of council tax.
16. The Council advised the Commissioner that it does not seek to apply section 14 of the FOIA frequently and in practice "it is the exemption of last resort". However, the gathering of relevant evidence in this case has emphasised the point that to continue to engage with the complainant on these issues would be wasteful of the Council's limited resources. The Council referred to the views expressed by the Upper Tribunal in the case of Information Commissioner vs Devon County Council & Dransfield [2012] UKUT 440 (AAC), (28 January 2013 that section 14 "allows the

public authority to say in terms that 'Enough is Enough'" (paragraph 11).

Burden on the authority/disproportionate effort

17. The Council referred to the Information Tribunal case of Coggins v Information Commissioner (EA/2007/013, 13 May 2008) where the Tribunal found that a "significant administrative burden" (paragraph 29) was caused by the complainant's correspondence with the public authority. In that case the complainant's contact ran to 20 FOIA requests, 73 letters and 17 postcards. The Council advised that it is apparent that, in this case, the number of letters from the complainant exceeds this figure.
18. In considering its application of section 14, during the Commissioner's investigation, the Council reviewed around 70 items of correspondence relating to the period 2010 to 2103. However, it is thought that the actual number of letters the complainant has written to the Council within the period 2010 to 2013 is in excess of 200 and that the total number of letters he has sent to the Council amount to "many hundreds".
19. The Council stated that the complainant has adopted his own reference numbering system to track his correspondence and has, on a number of occasions returned letters from the Council, apparently unread if the correspondence does not contain his references.
20. As a result of the cumulative burden of responding to correspondence the Welsh Government appointed Commissioner of the Council wrote to the complainant on 29 March 2012 stating that it would not respond to any future correspondence except in relation to matters associated with the care of his mother. In this letter, the Council's Commissioner stated that:

"I am somewhat dismayed that one individual (not a business or organisation) has created so much correspondence to the Authority that he has had to create a filing reference system – in my opinion this merely reflects that your corresponding with the Authority takes up much officer time in dealing with matters.....

...I take great exception to your constant criticism of Council services and officers and find that you are taking up much officer time when they should be focusing on providing services to all Anglesey residents.....

....I do not find that wasting officers time in responding to your constant negative correspondence, and on occasion in respect of tedious matters, at all helpful as it takes officers away from providing effective and efficient front-line services to all.

I am copying this letter my recommendation [sic] to the Minister for Local Government and Communities for his information so that he can see firsthand what officers have to deal with from a minority of Anglesey residents who have nothing better to do with their time. The recommendations being as you have deluged this administration and its' officers over a significant number of years I will be advising from now on this Authority does not respond to future correspondence save with the exception in regard to the care of your mother as and when necessary."

21. The Council confirmed that the measures it introduced in relation to responding to future correspondence from the complainant were supported by the Welsh Government. For this reason, the Council copied its letter to the complainant dated 29 March 2012 to the Minister for Local Government and Communities.
22. The complainant challenged the Council's decision to not respond to future correspondence and complained to the Public Services Ombudsman for Wales ('PSOW') about the matter along with a number of other issues. In relation to the Council's decision to refuse to correspond with the complainant, the PSOW accepted that it was an unusual step for the Council to take to restrict contact in such a way, but also considered it to be "reasonable in the circumstances". The PSOW noted that, at the time the decision had been made, the Council did not have a policy in place to deal with complainants it considered had taken unacceptable actions. However, as the Council had subsequently introduced such a policy, the PSOW recommended that the Council review its decision to restrict the complainant's contact in accordance with the new policy.
23. Following a review of its decision regarding restricting contact from the complainant the Council wrote to the complainant on 5 June 2013 to confirm that a decision had been made to lift the prohibition on responding to future correspondence. However, the Council advised that the complainant would need to address all future correspondence to a single point of contact – the Council's Chief Executive.
24. The Council considers that the cumulative burden in dealing with correspondence from the complainant is also compounded by the fact that its responses to letters only serve to encourage follow-up requests and complaints. The Council provided the Commissioner with a schedule and a sample of correspondence received from the complainant between 2009 and 2013. The schedule shows that the complainant has corresponded on a number of different matters including social services issues, information requests, highways and planning matter and general issues to demonstrate this pattern of behaviour. The Council provided the Commissioner with evidence that staff responsible for dealing with the complainant's correspondence have commented that the "burden

this represents has at time been overwhelming... and has stopped me from carrying on with my work", and that they "feel deflated every time I receive a letter from him as I know that whatever I send to him will only result in another letter".

Abusive or aggressive language/personal grudges/unfounded accusations

25. Parts two and three of the request focus on the academic and professional qualifications of officers who discussed the issue of payment of council tax at the Magistrates Court on 22 August 2013, prior to the case being heard in court. The Council advised that this a common feature of the complainant's correspondence. The Council is of the view that the aim of the complainant is to question the competence of the officers who have dealt with a particular matter, thereby undermining the veracity of the officer's actions or statements. The Council referred to a previous decision notice issued by the Commissioner regarding a request from the complainant about the academic and professional qualifications of other Council staff³.

26. The Council's Commissioner wrote to the complainant in November 2011 regarding unfounded allegations made about officers and stated that:

"...you are wrong to assert that there is neither public or professional scrutiny in reference to professional Planning Officers. Furthermore if you have hard evidence that any member of staff as acted illegally, then I expect you to provide the Monitoring Officer wither the facts.....Furthermore from a personal point of view I find your style of writing abrasive in the extreme which will never encourage any individual to have anything other than a natural defence mechanism".

27. The letter referred to above prompted a response from the complainant, where he stated:

"What follows is a lesson in moral philosophy; I do not expect the Commissioner to agree with it for it is where we part company.

it will take a book or two to describe the failures (and worse) of the Council's Planning Department whose generally acknowledged notoriety for 'unprofessional conduct' (and worse) goes back decades. Corruption, *sensu lato* and *sensu stricto*, is impossible for the ordinary person to prove, to do so requires long time consuming and expensive

³ <https://ico.org.uk/~/media/documents/decisionnotices/2011/FS50364328.ashx>

investigations by the police and/or the press. In my opinion, based on circumstantial evidence, there is *prima facie* evidence of what I will politely call 'unprofessional conduct'. I have made the Chief Constable of the North Wales Police aware of my suspicions – from experience I have no confidence in your Monitoring Officer, who is about to be the subject of a complaint to the Public Services Ombudsman (Wales).

....The Council's refusal to release the academic and professional qualifications of some of its planning and enforcement officers, which suggests that some of them do not have first degrees and appropriate secondary degrees and professional qualifications. This may go some way to explaining the previous three paragraphs [which includes the second paragraph quoted above]".

28. In a letter to the Council dated 13 August 2014, the complainant referred to an officer as being "no more than an unqualified clerk" because he did not accept the contents of a response they sent to him. The Council considers this clearly demonstrates an unacceptable attitude and serves as evidence of the vexatious nature of the request. The complainant also copied a letter he wrote to the Council dated 8 July 2013 to the Minister for Local Government, and included an addendum to the letter for the Minister's attention. In the addendum he asked to Minister to "let me know what he is doing about the illegal action of Commissioner Aldridge".
29. Due to the volume and tone of the complainants' correspondence, the Council advised that dealing with his correspondence has had a frustrating and negative effect on officers responsible for responding to it.
30. The Council also referred to other criticisms made by the complainant. In one letter he referred to the Council's Welsh Language Policy and stated that "it takes an extremely pedantic approach to the Welsh Language etc...". In another letter to the Council, he referred to Anglesey itself in a derogatory way as a "small offshore island". The Council considers that this statement suggests the complainant views the staff of the Council as incompetent rustics. In another letter dated 5 January 2012, the complainant stated that:

"I have yet to hear even a moderately good word to be said about the County Council and its predecessors. However, the attitude, the apparent lack of principles, ethics and morality, the arrogance, the contempt, the self-righteousness, the lack of public accountability, etc of the Council's Planning Department manifests itself in frustration and exasperation...."

Unreasonable persistence

31. The subject matter of the request relates to liability for payment of council tax at a particular property. The Council's view is that it has made all reasonable attempts to explain the issue of council tax to the complainant. Prior to the property becoming eligible for a particular exemption the Council wrote to the complainant on 20 February 2012 to explain how a particular council tax exemption operated and how any change of circumstances would effect it.
32. Following receipt of the reminder notice dated 17 June 2013, the complainant wrote to the Council on 8 July 2013 querying the demand in light of the fact that he had received a notice stating that council tax for the financial year 2013/14 was not payable. The complainant also raised concerns at the tone of the reminder and queried the authenticity of the demand itself as it was unsigned. The complainant stated that he wished to make a formal complaint about the matter stating that:

"It is my view that the person responsible for the first reminder should be severely disciplined and the person responsible for sending the second notice should have their employment terminated forthwith".
33. The Council responded to the letter on 24 July 2013 and provided some general information about the procedures for paying council tax. The Council also confirmed that, although a notice was issued on 25 March 2013 stating that no council tax was payable for the period 2013/14, on 3 April 2013 another council tax notice was issued confirming that the exemption that was previously applicable would terminate with effect from 16 April 2013 and full council tax was payable thereafter. The notice issued on 16 April 2013 provided details of the council tax payable for the property and details of instalments were also outlined. In its letter of 24 July 2013, the Council provided a direct debit mandate form and also confirmed that if payment was not received or a completed direct debit mandate received, there would be no option other than to issue a summons to appear at the relevant magistrates court. As no payment was received, the case was heard at Holyhead Magistrates Court on 22 August 2013. As stated earlier in this notice, the Court concluded that the complainant was liable for payment of council tax and made a Liability Order against him.
34. The Council is of the opinion that the request and other correspondence received from the complainant about the issue of council tax since the court case in August 2013 is an attempt to re-open issues that have been addressed through the Court as the correspondence and information request relates to liability for payment of council tax. The Council considers the request was motivated by an inability to accept the verdict of the court in respect of his liability for payment of council tax, by attacking the credibility of the Council and its officers.

35. The Council advised that, in this issue, and others, the complainant follows internal complaints procedures and refers matters to appropriate regulators in an attempt to frustrate or reverse processes or decisions that he finds unacceptable. In a letter to the Council dated 21 April 2013 the complainant stated that:

"The ombudsman will wish to know that I have considered making a large number of accumulated complaints about the Council's treatment of my mother since 2002.....exacerbated by the failures of the Ombudsman to take effective action...."

The Council considers that this statement demonstrates that not only does the complainant perceive "what amounts as blanket-bombing of public authorities, to be an effective tool, but that he considers that regulators are an effective means of circumventing proper process".

36. In a letter the complainant copied to the Minister for Local Government, he asked the Minister to "give favourable consideration to legislation containing three major elements", the third of which was "the abolition of the Ombudsman and replacement with an effective regulator with the remit to deal with wrong doing etc even if the complainant does not suffer loss".

The complainant's position

37. In his complaint to the Commissioner, the complainant made the following points in support of his view that the request is not vexatious:

- The Council advised him that council tax was not payable for the property.
- Several months later it sent him a reminder stating that he was in arrears.
- He asked the Council's Chief Executive for an explanation but did not receive a reply.
- A notice that council tax was payable was sent eventually.
- He was given two days' notice of a court hearing.
- He considers there were serious errors in the court hearing, which he is challenging.
- He was not given any opportunity to "discuss the principle of paying council tax and if so the quantum, although I had asked the Council several times since 2012".

38. The Commissioner put the complainant's points to the Council and asked for comments or representations on the points raised. The Council's position in relation to the issues is outlined below:

- Liability for council tax was explained in letters the Council sent to the complainant on 20 February 2012, 24 July 2013 and 29 August 2013.
 - A response to the complainant's letter of 8 July 2013 querying liability for payment of council tax was issued on 24 July 2013. A further letter explaining the matter was issued on 29 August 2013.
 - Whilst the Council had issued a notice on 25 March 2013 stating that council tax was not payable, due to a change in circumstances the property ceased to qualify for the council tax exemption from 16 April 2013, and the Council issued a new council tax notice for the year 2013/2014 on 3 April 2013. As no payment was received, reminder notices were issued on 17 June 2013 for the May and June instalments, followed by a final notice on 3 July 2013.
 - Whilst the Council acknowledges that it is the complainant's opinion there were serious errors in the court hearing, the Council considers that this is a separate issue and does not detract from the vexatious nature of the request.
 - The Council contends that it provided an opportunity for the complainant to discuss the principle of paying council tax and this is evidenced in the notices and correspondence issued.
39. The complainant advised both the Council and the Commissioner that he spends a considerable amount of time out of the country. As a result of this, there are delays in him receiving correspondence which is sent to his property in Anglesey. The complainant also confirmed that he does not have access to electronic communications. In a letter which the complainant sent to the Council dated 8 October 2013, amongst other issues, he raised concerns that council tax notices, reminders and summons were sent to the Anglesey address despite him previously advising the Council that correspondence sent to the address were "unlikely to be received for 2-3 months". He stated that he considered this to have been done deliberately so that he would be unable to attend the court hearing. He considered this action "would allow the Council to submit derogatory and damaging remarks that would not be countered. Put another way, it seems that Council's actions were motivated by malice". The Council's response to this letter stated that, as a general rule, responses to correspondence were sent to the address that the complainant had included on his letters, unless he requested otherwise. However, the Council confirmed that there was a note on the council tax account for the property (which was made following a meeting with the complainant on 1 February 2013) that the Anglesey address was "to be his correspondence address as he travels around 7 different countries in Europe".

Conclusion

40. As stated above, the Commissioner's approach is to assess whether the level of disruption, irritation or distress caused to the authority by the request is disproportionate or unjustified, when weighed against the purpose and value of the request. When making the assessment, he has also taken into account the context and history of the request, ie the wider circumstances surrounding the request.
41. The Commissioner notes the Council's representations in relation to its previous dealings with the complainant. In this case, the Council has been able to demonstrate that it has engaged to a significant extent with the complainant's detailed correspondence on various matters over a number of years, and it has taken his correspondence seriously. The Commissioner is prepared to accept that, cumulatively, the Council has spent a significant amount of time and resources in dealing with the complainant's information requests, in addition to separate subject access requests and other correspondence and contacts from the complainant. The problem here is not a lack of engagement from the Council but simply that the complainant disagrees with what the Council has done and its justification for it.
42. The Commissioner notes that the request in this case relates to the payment of council tax for a particular property, ie the issue at hand is one that affects the requestor as an individual. The matter has been subject to independent investigation via the Courts, which concluded that the complainant was liable for payment of council tax for the property in question. The request is clearly a further attempt to challenge the decisions and actions taken by the Council, and question the competence of Council officers involved in the matter. It appears to the Commissioner that the Council has made all reasonable attempts to explain and justify its actions to the complainant. The Commissioner agrees with the Council that responding to the requests would not resolve this matter, but would instead prolong the argument when the Council has already made its position clear. Pursuing numerous avenues of complaint and not being satisfied with any view that differs from one's own is a common characteristic in cases involving vexatious requests.
43. The Commissioner notes the evidence provided by the Council about the language and tone of the complainant's previous communications. He accepts that this has gone beyond what the Council's staff should reasonably expect to receive. The Commissioner also considers that some of the language employed in the complainant's correspondence as well as the accusations and allegations he makes against members of staff would be harassing to the individuals. The Commissioner accepts that one of the comments the Council stated the complainant made against a particular officer (referred to in paragraph 28) occurred after the request was submitted. However, he considers the comment to be

further evidence supporting the pattern of behaviour the complainant has demonstrated in his dealings with the Council.

44. Based on the evidence available to him in this case and other FOIA complaints that the Commissioner has dealt with from the complainant, the Commissioner accepts that the complainant has demonstrated a pattern of behaviour in terms of requesting the professional and academic qualifications of staff within public authorities who have dealt with matters on his behalf, when he is dissatisfied with the response or actions of the individuals concerned.
45. The Commissioner also considers that, based on the evidence provided, it is reasonable to conclude that the complainant will continue to submit requests, and/or maintain contact about the subject matter regardless of any response provided to the request in question. The disruption to the Council resulting from any continuing correspondence would be disproportionate. The Commissioner is therefore satisfied that, in the context of the Council's previous and ongoing dealings with the complainant, compliance with the request would result in a disproportionate burden on its resources.
46. Taking into account all the circumstances of the case, the Commissioner considers that a strong case has been presented to demonstrate that the request is vexatious. It was not the intention of the legislation that individuals should be allowed to pursue personal grievances to an unreasonable extent through the use of the FOIA. Limited public resources should not be spent on continuous unproductive exchanges. The FOIA gives significant rights to individuals and it is important that those rights are exercised in reasonable way. There comes a point when the action being taken and the associated burden being imposed on the authority is disproportionate to the objective that the complainant is attempting to achieve. That point has been reached in this case. There is nothing to suggest that there is any serious purpose or value behind the request which is sufficient to warrant the Commissioner overturning the Council's decision to rely on section 14(1).
47. Taking into consideration the findings of the Upper Tribunal in Dransfield that a holistic and broad approach should be taken in respect of section 14(1), the Commissioner has decided that the Council was correct to find the request vexatious. Accordingly, the Commissioner finds that section 14(1) has been applied appropriately in this instance.

Right of appeal

48. 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

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

49. 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.
50. 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

Anne Jones
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