

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 31 March 2014

**Public Authority:** South Tyneside Council  
**Address:** Town Hall & Civic Offices  
Westoe Road  
South Shields  
Tyne and Wear  
NE33 2RL

### **Decision (including any steps ordered)**

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1. The complainant made 3 separate information requests to South Tyneside Council (the council). The information requested was regarding council credit cards and information about a charity. The council refused to provide the requested information relying on section 14 of the FOIA for all 3 of the requests.
2. The Commissioner's decision is that the council has correctly applied section 14 of the FOIA for all 3 of the requests.
3. The Commissioner does not require the council to take any steps.

### **Request and response**

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4. On 14 August 2013, the complainant made two separate information requests to the council. These were:

*"Would you please provide me with a copy of the credit card statement for the Council card which has been issued to the following officers? [name redacted], [name redacted], [name redacted], [name redacted]". The relevant dates of these statements are April 2012 to March 2013, and March 2013 to August 2013".*

And:

*"There was a meeting took place at your offices on the above date and involved the Chair & Vice Chair and others possibly*

*[name redacted] etc. The meeting was in connection with various tenders, Invites for this meeting were sent out by email to the Chair & Vice Chair. Would you please forward me a copy of the minutes which would have been taken and recorded at this meeting. Would you also please provide me with a copy of relevant pages of the STH / Strathmore visitors book for the same date 22/02/12."*

5. On the 24 August 2013 the complainant also made the following request for information:

- a. *"Would you please provide me with a detailed breakdown of all monies/ grants / funds paid by the Council to a Charity by the name of Arts 4 Wellbeing based in South Shields over the past 3 years.*

*I am aware that 3 local Councillors [name redacted] / [name redacted] / [name redacted] are actively involved with this Charity.*

*The Charity Commission website confirms that this Charity has received in excess of £250,000 VOLUNTARILY from the Council in the past 3 years, could you please confirm the exact figure.*

*Would you also please provide an explanation why the Council agreed to write of £21,666 to this Charity, as stated on the Charity Commission website within this Charities accounts ?*

*What was the reasons for writing off this vast amount of taxpayers funds in these times of austerity ?*

*Exactly who made this decision to write off this debt, if it was a committee please provide the names of the members present when the decision was made.*

*Would you please confirm if the Council owns the building where this charity is based.*

*If the Council does own this building, could you please provide me with the details of--*

*The lease & agreed rent etc that this Charity has signed with the Council and exactly what they have paid to the Council over the past 3 years.*

*Would you please inform me what rates the Council has charged/ received from this charity over the past 3 years.*

*Would you please provide me with a breakdown of the costs of repairs / maintenance which the council has carried out / financed on this building over the past 3 years.*

*Please advise me if the Council directly or indirectly finances any staff who are INVOLVED with this charity.*

*Please provide me with a comparison breakdown of expenditure by the Council over the past 3 years for this Charity against the Councils expenditure for Queens Road day centre Jarrow."*

6. The council responded to the two 14 August 2013 requests on the 13 September 2013. It then responded to the 24 August 2013 request on the 17 September 2013. The council refused to provide the information for all three requests, relying on section 14 of the FOIA as it deemed them to be vexatious.
7. The council provided an internal review for all three requests on the 26 September 2013 and it maintained its decision.

### **Scope of the case**

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8. The complainant contacted the Commissioner as he is not satisfied that the council has refused his three requests.
9. The Commissioner considers the scope of the case is to determine whether the council was correct to refuse the three information requests under section 14 of the FOIA.

### **Reasons for decision**

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10. Section 14(1) of the FOIA states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.
11. The term "vexatious" is not defined in the FOIA. The Upper Tribunal considered the issue of vexatious requests in the case of the *Information Commissioner v Devon CC & Dransfield*<sup>1</sup>. The Tribunal commented that

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<sup>1</sup> GIA/3037/2011

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.

12. In the Commissioner's view, the key question for public authorities to consider when determining if a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
13. 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 requests<sup>2</sup>. 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 a request is vexatious.
14. The council has explained to the Commissioner that it considers all three of the requests are vexatious when considering the history of its dealings with the complainant. It has looked at the complainant's comments, known aims and the wider context of his behaviour to the council and its employee's.
15. *23 paragraphs of analysis has been added into a confidential annex:*  
  
*A copy of this annex has been provided only to the complainant and the council. The paragraphs have been confidentially annexed to ensure anonymity of the complainant as the evidence supplied and discussed could lead to the identification of the complainant.*
16. The council are of the opinion that if it was to respond to any of the above requests the complainant would only use this to make further unjustified complaints and allegations against it and its employees causing further distress and increase the significant burden that has already been placed on it. The council consider that these requests are

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[http://ico.org.uk/for\\_organisations/guidance\\_index/~media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/dealing-with-vexatious-requests.ashx](http://ico.org.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx)

an inappropriate, unjustified, and improper use of the statutory right to access information under the FOIA when viewed in context to the history of the council's dealings with the complainant.

17. It is obvious to the Commissioner that the complainant is not satisfied with the council and how it conducts itself. He understands that the complainant has his reasons for pursuing the council. However, the fact that his complaints have already been through many external bodies, to which the council has not been found at fault, does demonstrate that the complainant is never going to be satisfied with the council and will continue to pursue his personal grievances with it. If the council were to respond to these requests, the Commissioner recognises that there is going to be a further disproportionate impact placed on it to respond and that a response would more than likely lead to further requests and allegations. This would then lead to further unjustified stress being placed on the council and its employees.
18. On considering the above the Commissioner is satisfied that the council has correctly relied on section 14 of the FOIA in this case to all three of the requests.

## Right of appeal

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19. 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: [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)

20. 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.
21. 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**