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**First-tier Tribunal
General Regulatory Chamber
Information Rights**

**Decided without a hearing on: 4 May 2023
Decision given on: 16 May 2023**

Before

**TRIBUNAL JUDGE HAZEL OLIVER
TRIBUNAL MEMBER STEPHEN SHAW
TRIBUNAL MEMBER EMMA YATES**

Between

PETER WEBB

Appellant

and

INFORMATION COMMISSIONER

Respondent

Decision: The appeal is Dismissed

REASONS

Background to Appeal

1. This appeal is against two decisions of the Information Commissioner (the “Commissioner”) dated 21 June 2022 (the “First Decision Notice”, covering requests one to four) and 5 August 2022 (the “Second Decision Notice”, covering requests five and six). The appeal relates to the application of the Freedom of Information Act 2000 (“FOIA”). It concerns various sets of information requested from Lydd Town Council (the “Council”).

2. The parties opted for paper determination of the appeal. The Tribunal is satisfied that it can properly determine the issues without a hearing within rule 32(1)(b) of The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (as amended).

The Requests

3. **Request One** of 11 June 2021:

“...I am submitting this Freedom of Information request to Lydd Town Council with regards to Romney Marsh Forum’s Agendas & Minutes when in meetings with Lydd Town Council.

This request is for copies of the

Agendas and Minutes of meetings held by LTC within the last 3 years with the Romney Marsh Forum.

Note: This request follows information received from the Information Commissioner’s Office (ICO) and must not be confused with our FOI request dated 10th May 2021....(original emphasis)”

4. The Council responded on 24 June 2021 by explaining that the Council as a body does not meet with Romney Marsh Forum and the meetings of the forum are not in the public domain.

5. **Request Two** of 27 July 2021:

*“...I am submitting this Freedom of Information request to Lydd Town Council with regards to the process of **Delegated Authority**.*

*We have witnessed a series of **Planning and Environment Committee Meetings** held by Lydd Town Council within this Covid pandemic period.*

15th April 2020

8th June 2020

6th July 2020

5th August 2020

2nd September 2020

*The above meetings were all held quote: **Delegated Authority via Email due to COVID-19***

21st June, 2021

5th July, 2021

*The above meetings were all held quote: **Under Delegated Authority in line with Covid restrictions and Government guidelines.***

*(1) In most cases, these 2020 meetings only had 2 councillors present which are in breach of your **Standing Orders (Item: 4dviii)** i.e. 3 councillors to be present to form the legal quorum.*

*(2) Also, during this period, (April 2020) as a council, government stated you must apply **The Local Authorities and Police and Crime Panels (Coronavirus)(Flexibility of Local Authority and Police and Crime Panel Meetings)(England and Wales) Regulations 2020***

Section 5 (5) Quote: 'The provision made in this regulation applies notwithstanding any prohibition or other restriction contained in the standing orders or any other rules of the authority governing the meeting and any such prohibition or restriction has no effect'. **This legislation over rules all Delegated Authorities.**

(3) Question to Damian Collins MP regarding above legislation: Does this mean, all set procedures with regards to Local Authority Meetings before this piece of legislation (4th April 2020) are now inoperable until May 2021 (i.e. Delegated Authority etc)

MP's response: I would say that the provisions of the regulations in question apply regardless of any contradictory internal rules of the local authorities and police and crime panels to which it relates.

(4) **The Openness of Local Government Bodies Regulations 2014**, places a requirement on councils to publish reports on decisions taken under authority delegated.

It's plausible to think that from April 2020, LTC have been operating unlawfully, therefore this request is for copy(s) of:

All Reports/Minutes where it is recorded where these Delegated Authorities were agreed by Full Council....(original emphasis)"

6. **Request Three** of 28 July 2021:

"...I am submitting this Freedom of Information request to Lydd Town Council with regards to the Lydd Town Council's **Annual Statutory Meeting** held on Monday 26th April 2021.

This meeting's Agenda stated:

Item 11: DATES OF FORTHCOMING MEETINGS 2021-22 (enclosure)

To receive the list of meeting dates for the forthcoming year

Residents viewed this 'virtual' meeting, there was no reference to this change of practice in the meeting itself, no discussion, no resolution proposal to full council, no proposer or seconded to support the resolution, but is recorded in the draft minutes as having been resolved.

The 'draft' minutes for this meeting shows:

Item 82. DATES OF FORTH COMING MEETINGS 2021-22

Showing a tabled matrix of your plan of forthcoming Bi- Monthly Council meetings throughout the 2021/2022 year.

Stating:

RESOLVED: That the schedule of meetings is as set out. Proposed by Cllr Snell and seconded by Cllr Hills.

Therefore, this request is for copy(s) of:

All Reports/Minutes evidencing when/how this change of practice of holding Bi-Monthly meetings was officially agreed at the above meeting attended by full council...(original emphasis)"

7. **Request Four** of 20 September 2021:

“...We are submitting this Freedom of Information request to Lydd Town Council with regards to the unverified figures stated by a Lydd Town Councillor on Social Media regarding installations costs for a CCTV system in Lydd.

*Quote: peter the Ashford monitoring is run by the council with other agencies. The cost is fantastic. The Current Lydd set-up is obsolete and never was fit for purpose
A completely new set-up would cost over 100.000 pounds and the life expectancy would be ten years =10,000 per year.
This was quoted on social media by a Lydd councillor, therefore in the public domain.*

We request copy(s):

The break down cost of the £100k as quoted and the monthly ongoing running costs...(original emphasis)”

8. The Council wrote to the Appellant on 21 September 2021 in response to Request Four (and another request made on the same date) and refused to answer on the grounds of vexatiousness. The Council also stated that requests from Peter Webb, the purported “Lydd Residents Group” and communications from Ian Dimmock or those sending requests on the Appellant’s behalf would now be considered “vexatious, designed to cause a disproportionate and unjustified level of distress, disruption and irritation”...and “we regard them as being a manifestly unjustified, inappropriate and improper use of a formal procedure to obtain information that either is not subject to disclosure, or that would be publicly available in any event.”

9. The Appellant complained to the Commissioner about Requests One to Four. The Commissioner issued the First Decision Notice on 21 June 2022 in which he upheld the Council’s reliance on section 14 to refuse to comply with Requests One to Four.

10. **Request Five** of 11 April 2022:

“I am submitting this Freedom of Information request to Lydd Town Council with regards to Lydd Town Council’s Auditors documentation approved at LTC Meeting held on 7th March 2022.

This request is for a copy of the:

- 1. The Internal Auditor’s Terms of Reference for 2022-23*
- 2. The Internal Audit Plan 2022-23*
- 3. The Statement of Internal Control 2022-23*
- 4. The Risk Management Document 2022-23*

I request the above information to be provided to me as an electronic copy.

If the release of any of this information is prohibited on the grounds of breach of confidence, I ask that you supply me with copies of the confidentiality agreement and remind you that information should not be treated as confidential if such an agreement has not been signed.”

11. **Request Six** of 11 April 2022:

“I am submitting this Freedom of Information request to Lydd Town Council with regards to Lydd Town Council’s Annual Governance and Accountability Return (AGAR) for the year ended 31st March 2021 by PKF Littlejohn (Auditors)

This request is for a copy of:

The Report and Certificate from PKF Littlejohn that was received, considered, noted and agreed by Council at the LTC Meeting of the 6th September 2021.

I request the above information to be provided to me as an electronic copy.

If the release of any of this information is prohibited on the grounds of breach of confidence, I ask that you supply me with copies of the confidentiality agreement and remind you that information should not be treated as confidential if such an agreement has not been signed.”

12. The Council did not respond to these requests.

13. The Appellant complained to the Commissioner about Requests Five and Six. The Commissioner issued the Second Decision Notice on 5 August 2022 in which he upheld the Council’s reliance on section 14 to refuse to comply with Requests Five and Six.

Reasons for Commissioner’s decision

14. The reasons for the Commissioner’s decision for finding that the Council was entitled to rely on section 14(1) FOIA were the same in both cases:

- a. The Council considers the requests to be vexatious and designed to cause a disproportionate and unjustifiable level of distress, disruption and irritation. It also considers the requests to be inappropriate and an improper use of a formal procedure.
- b. The Council states that the complainant is part of Lydd Resident Group, who have submitted a large number of requests. It has spent a considerable amount of time handling the Group’s requests which has placed a strain on the Council’s time and resources.
- c. The Commissioner is aware that the Council has received a large number of requests from Lydd Resident Group as the Commissioner has received multiple complaints from members of the Group about the Council’s handling of requests.
- d. The Commissioner recognises that the Council is a small public authority and accepts the Council’s argument that complying with the requests would place severe pressure on the Council’s limited resources.
- e. In relation to Requests Five and Six, the Commissioner is also satisfied that, having provided a suitable refusal notice previously, it was appropriate for the Council to rely on section 17(6) to not respond.

The Appeal and Responses

15. The Appellant appealed both Decision Notices. Taken together, his grounds of appeal are:

- a. His requests have all been dealt with through a blanket statement that they were all vexatious, without supporting evidence. The requests all cover different topics. He has received advice from an ICO caseworker that a public authority cannot place a blanket ban on an individual from making future requests under FOIA.
- b. It was not too onerous a task to deal with each request. They do not ask for information that is not readily accessible, and the Council has three qualified officers.
- c. The only requests from Lydd Resident Group come from him, and he/the group are not responsible for other requests. His own membership of the group should be irrelevant, as the Commissioner should look at the validity of the request content, not who sent it.
- d. He has specific reasons for each of the requests in the public interest, as explained in his appeal documents.

16. The Commissioner's responses maintains that the Decision Notices are correct. The first response provides considerable background detail on the history of various FOIA requests from the Appellant and other dealings between the Appellant and the Council. In summary, the Commissioner's position is as follows:

- a. There is some serious purpose or value to the requests, but it is necessary to consider whether this is sufficient to justify the impact on the relevant public authority when viewed in the context and history of the requester's previous dealings with the public authority – which includes not only earlier information requests but also the general course of dealings between the two parties.
- b. The burden included the aggregated burden of dealing with all previous requests and communications dating back to 2017. This fell to the Clerk and part-time assistant, with an array of other responsibilities made more onerous by the Covid-19 pandemic. One request is likely to lead to further requests. A table shows 23 requests from the Appellant between May 2017 and 20 September 2021.
- c. The Commissioner takes the view that the Appellant and former Town Councillor Ian Dimmock were acting in concert with FOIA requests.
- d. The Appellant has made a number of negative and inflammatory comments that would inevitably lead the Clerk to feel some level of distress especially when combined with the burden of dealing with the volume of requests and correspondence.
- e. The Commissioner did indicate in a letter from an ICO caseworker to the Appellant that there can be no blanket ban on an individual making information requests, but in this case found the Council was entitled not to issue a further refusal notice for Requests Five and Six.
- f. Although FOIA is generally Appellant and motive blind, one of the exceptions is section 14 FOIA where the identity of the requester is a key factor in considering whether their requests are vexatious.

17. The Appellant has submitted replies which reiterate the point about being told by an ICO caseworker that there cannot be a blanket ban on future requests. He says that the requests he

made were simple, on different topics and in the public interest. He refers to a statement from the Commissioner that they are “committing to delivering more systemic enforcement action against public authorities that clearly and consistently fail to meet their FOI obligations”, and says that his rights are being denied.

Applicable law

18. The relevant provisions of FOIA are as follows.

1 General right of access to information held by public authorities.

- (1) Any person making a request for information to a public authority is entitled—
- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - (b) if that is the case, to have that information communicated to him.

.....

14 Vexatious or repeated requests.

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

.....

17 Refusal of request

.....

- (5) A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the Appellant a notice stating that fact.
- (6) Subsection (5) does not apply where—
- (a) the public authority is relying on a claim that section 14 applies,
 - (b) the authority has given the Appellant a notice, in relation to a previous request for information, stating that it is relying on such a claim, and
 - (c) it would in all the circumstances be unreasonable to expect the authority to serve a further notice under subsection (5) in relation to the current request.

.....

58 Determination of appeals

- (1) If on an appeal under section 57 the Tribunal considers—
- (a) that the notice against which the appeal is brought is not in accordance with the law, or
 - (b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he ought to have exercised his discretion differently, the Tribunal shall allow the appeal or substitute such other notice as could have been served by the Commissioner; and in any other case the Tribunal shall dismiss the appeal.
- (2) On such an appeal, the Tribunal may review any finding of fact on which the notice in question was based.

19. There is no further guidance on the meaning of “vexatious” in the legislation. The leading guidance is contained in the Upper Tribunal (“UT”) decision in **Information Commissioner v Dransfield** [2012] UKUT 440 (AAC), as upheld and clarified in the Court of Appeal (“CA”) in **Dransfield v Information Commissioner and another & Craven v Information Commissioner and another** [2015] EWCA Civ 454 (CA).

20. As noted by Arden LJ in her judgment in the CA in **Dransfield**, the hurdle of showing a request is vexatious is a high one: “...the starting point is that vexatiousness primarily involves making a request which has no reasonable foundation, that is, no reasonable foundation for thinking that the information sought would be of value to the requester, or to the public or any section of the public. Parliament has chosen a strong word which therefore means that the hurdle of satisfying it is a high one, and that is consistent with the constitutional nature of the right. The decision maker should consider all the relevant circumstances in order to reach a balanced conclusion as to whether a request is vexatious.” (para 68).

21. Judge Wikeley’s decision in the UT **Dransfield** sets out more detailed guidance that was not challenged in the CA. The ultimate question is, “is the request vexatious in the sense of being a manifestly unjustified, inappropriate or improper use of FOIA?” (para 43). It is important to adopt a “holistic and broad” approach, emphasising “manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious requests.” (para 45). Arden LJ in the CA also emphasised that a “rounded approach” is required (para 69), and all evidence which may shed light on whether a request is vexatious should be considered.

22. The UT set out four non-exhaustive broad issues which can be helpful in assessing whether a request is vexatious:

- a. **The burden imposed on the public authority by the request.** This may be inextricably linked with the previous course of dealings between the parties. “...the context and history of the previous request, in terms of the previous course of dealings between the individual requester and the public authority in question, must be considered in assessing whether it is properly to be characterised as vexatious. In particular, the number, breadth, pattern and duration of previous requests may be a telling factor.” (para 29).
- b. **The motive of the requester.** Although FOIA is motive-blind, “what may seem like an entirely reasonable and benign request may be found to be vexatious in the wider context of the course of dealings between the individual and the relevant public authority.” (para 34).
- c. **The value or serious purpose.** Lack of objective value cannot provide a basis for refusal on its own, but is part of the balancing exercise – “does the request have a value or serious purpose in terms of the objective public interest in the information sought?” (para 38).
- d. **Any harassment of, or distress caused to, the public authority’s staff.** This is not necessary in order for a request to be vexatious, but “vexatiousness may be evidenced by obsessive conduct that harasses or distresses staff, uses intemperate language, makes wide-ranging and unsubstantiated allegations of criminal behaviour or is in any other respects extremely offensive.” (para 39).

23. Overall, the purpose of section 14 is to “protect the resources (in the broadest sense of that word) of the public authority from being squandered on disproportionate use of FOIA” (UT para 10), subject always to the high standard of vexatiousness being met.

Issues and evidence

24. The issues are:

- a. Was the Council entitled to rely on section 14(1) FOIA to refuse to reply to the six requests?
- b. Was the Council entitled to rely on section 17(6) FOIA to refuse to provide any refusal notice to the Appellant in relation to Requests Five and Six?

25. By way of evidence we had the following:

- a. An agreed bundle of open documents, which we have read and taken into account.
- b. Final submissions from the Appellant of 26 January 2023, which we have read and taken into account.
- c. A closed bundle of documents containing unredacted versions of some of the documents in the open bundle, and some documents relating to a different requester. Although the Registrar had made directions based on this being the withheld information, in fact the redactions appear to have been made to protect the personal data of third parties. It is not clear that all of this material should have been put in the closed bundle. We have not relied on the redacted information or the information relating to another requester in making our decision.

Discussion and Conclusions

26. In accordance with section 58 of FOIA, our role is to consider whether the Commissioner's Decision Notice was in accordance with the law. As set out in section 58(2), we may review any finding of fact on which the notice in question was based. This means that we can review all of the evidence provided to us and make our own decision. We deal in turn with the issues.

Was the Council entitled to rely on section 14(1) FOIA to refuse to reply to the six requests?

27. ***"Blanket" refusal to reply.*** The Appellant's main complaint is that the Council has a blanket policy of refusing to reply to his requests, as set out in their letter to him of 21 September 2021. The relevant paragraph of this letter is as follows: *"Dealing with your manifold applications to date has been a considerable burden on the authority, being grossly oppressive in terms of the strain on time and resources. Thus, in future, no matter how legitimate the subject matter or valid the intentions of the requester, the Council will no longer respond to your requests."*

28. The Appellant refers to advice from the Commissioner on this point. A fuller version of the text of this advice is set out in the Commissioner's response to the second appeal as follows:

"With regards to your concern about the letter that you have received from Lydd Town Council, a public authority cannot place a blanket ban on an individual from making future requests under FOIA. However, a public authority does not need to respond to future requests from an individual if:

- *it has already refused a previous request for being vexatious (which we refer to as the "refusal notice"), and*
- *it would be unreasonable to issue another refusal notice..."*

29. This is an accurate explanation of the effect of section 17(6) FOIA (although it does not make it clear that the future requests must also be vexatious in order for there to be no refusal notice). The Appellant is right that a public authority cannot place a ban on ever responding to future requests from a particular individual. If this is what the Council meant in its letter of 21 September 2021, it goes too far. Each request must be considered on its own merits in order to decide whether it is

vexatious under section 14. However, if new requests do fall within section 14, it can be unreasonable to expect a public authority to keep issuing further refusal notices. For example, as referred to in the Council's letter, if future requests involve continuation of a considerable burden and are oppressive. This is why section 17(6) allows a public authority to stop replying to continued vexatious requests.

30. The Appellant also makes the point that his requests are on different topics. A chain of requests on the same topic can be vexatious. However, it is not necessary for requests to be on the same topic. The Upper Tribunal in **Dransfield** found that there is no need for requests to relate to one underlying grievance, or for requests to be on more than the same broad subject. In this case, the Appellant's requests are all directed at the broad topic of governance of the Council and how the Council has managed specific issues within its remit. There is a theme of checking and challenging the Council's decision-making processes, within the context of a wider set of FOIA requests, questions and complaints from the Appellant.

31. We have considered in turn the suggested list of factors in **Dransfield** and the overall circumstances of the case.

32. **The burden imposed on the public authority by the request.** This is a key factor that was relied on by the Council. The Commissioner's first response sets out an extensive history of communications between the Appellant and the Council, and these requests must be considered in that context. There are numerous written questions, letters of concerns and letters of complaint in addition to FOIA requests. The Commissioner provided a table (page A80 open bundle) which listed a total of 23 separate FOIA requests from the Appellant, starting in May 2017 and ending on 20 September 2021. Thirteen of these were sent in 2021. The Commissioner's second response records that another request was sent on 21 September 2021, followed by requests Five and Six in April 2022. This is a considerable volume of FOIA requests from one person. The frequency increased significantly from 2021, with multiple requests being sent on the same day a number of times.

33. The Appellant says that the requests are all simple and easy to answer, and ask for information that is readily accessible. He questions how they can be vexatious. It may be the case that individually each request is relatively easy to answer. However, as noted by the Commissioner, we can also consider the aggregated burden of dealing with this volume of requests. We have particularly taken into account the total of fourteen requests sent by the Appellant in 2021.

34. The Appellant has referred to there being a Town Clerk, Assistant Town Clerk and Finance Officer who could deal with the requests. We note that the Council had no freedom of information officer, and that dealing with requests would not have been within the remit of the finance officer. This is a small team. It also appears from information provided to the Commissioner by the Council that the Town Clerk works Monday to Thursday and is the only person who responds to FOIA requests (page D234-5 open bundle). The assistant is part-time (16 hours per week, page D238 open bundle). This small team has to cover all other responsibilities of running the Council. From March 2020 onwards, these responsibilities would have been added to by the significant challenges arising from the Covid-19 pandemic. We therefore find that dealing with this volume of FOIA requests from the Appellant would have been a significant burden on this small team, and the Town Clerk in particular.

35. Although the Commissioner has also taken into account FOIA requests from another individual, on the basis that he and the Appellant were acting in concert, we have not done so. This

is not necessary, because the requests from the Appellant alone create a significant burden on the Council.

36. ***The motive of the requester.*** The Appellant says that his own membership of the Lydd Resident Group should be irrelevant, and the Commissioner should look at the validity of the request content, not who sent it. The Appellant is right that the validity of a FOIA request does not usually depend on the identity of the requester or the motive behind the request. However, section 14 is an exception to this principle. The motive of the requester can be relevant to whether a request is vexatious in the wider context of the course of dealings between the individual and the relevant public authority. In this case, the dealings between the Appellant and the Council suggest that many of the FOIA requests are being used as part of a campaign to question and undermine the Council.

37. ***The value or serious purpose.*** The Appellant has provided some reasons for these six requests. Individually, each request may be about information that is in the public interest. This is certainly not a case where requests are essentially about an individual's personal situation. We do note, however, that at least some of the requests appear to be for information that was already available to the public or would become available shortly (such as Requests Five and Six, as noted in the Commissioner's second response). This limits the public interest. We also note that the serious purpose behind the requests may be limited if the underlying motive is to undermine the Council. In any event, a series of requests can be vexatious even if each request is of value and has a serious purpose. This value and purpose can be outweighed by other factors, such as burden and lack of proportionality.

38. ***Any harassment of, or distress caused to, the public authority's staff.*** We do not find that the Appellant has used the extreme types of language and behaviour referred to in the ***Dransfield*** test. As noted by the Commissioner, he has used some negative and critical language in his correspondence. Taken together with the volume of requests, we accept that this would have caused some distress to the Town Clerk. This individual had the burden of dealing with all the FOIA requests and other correspondence from the Claimant. We can see that the workload (on top of all other work and the effects of Covid-19), combined with the feeling of being targeted by the Appellant's criticisms, would have caused distress as well as disruption.

39. ***The overall circumstances of the case.*** As set out in the ***Dransfield*** decisions, we are to take a rounded and holistic approach. We have taken into account the underlying purpose of section 14 to protect the resources of the public authority from being squandered on disproportionate use of FOIA. Having considered all the circumstances, we find that these Requests were a disproportionate use of the freedom of information regime. They were a manifestly unjustified, inappropriate or improper use of FOIA. It appears that the Appellant has been using an increasing number of FOIA requests as part of a wider campaign to question and undermine the Council and its decision-making, and this is a pattern of behaviour that is likely to continue. The volume of requests, and the effect on the small team dealing with them, is a significant diversion from the main work of the Council – delivering local services. This is not in the public interest.

40. The FOIA regime is one way in which public authorities can be held to account. The Appellant complains that his rights are being denied. In a sense he is correct – the effect of section 14 is to allow public authorities to refuse to reply to FOIA requests, even if the requests themselves are legitimate ones. However, there is no absolute right to have FOIA requests answered. This is why there are various exceptions to the right, including section 14. It is a question of balance. There are other methods of accountability as well, such as attending Council meetings and interrogating minutes once they are published. A public authority needs to retain its ability to carry out its main

work effectively There comes a point where the effect of constant FOIA requests is so significant that those requests can be denied. We find that this point was reached in this case.

41. We therefore find that the Council was entitled to rely on section 14(1) FOIA to refuse to reply to each of the six requests. The requests had become vexatious by the time of Request One on 11 June 2021 (the eighth request that year), and this continued to be the case with the following five further requests.

Was the Council entitled to rely on section 17(6) FOIA to refuse to provide any refusal notice to the Appellant in relation to Requests Five and Six?

42. As explained above, section 17(6) FOIA allows a public authority to provide no response to further vexatious requests. We have found that Requests Five and Six could be refused on the grounds of vexatiousness under section 14. They were part of a repeated pattern of disproportionate FOIA requests. The issue is whether it was unreasonable to expect the Council to serve a further refusal notice. In all the circumstances, we find that was unreasonable to expect the Council to do so. The Council had provided a refusal notice previously and had told the Appellant that they would not be responding to further requests because of the burden of doing so.

43. We note that this does not mean that the Council can automatically refuse to reply to all FOIA requests from the Appellant. The Council will still need to consider each request to decide if it falls within section 14 FOIA and, if so, whether it is unreasonable to expect them to provide a refusal notice for that particular request.

Other matters

44. As dealt with in the Commissioner's first response, the Appellant had also raised some complaints about the Council's and the Commissioner's handling of this matter in his first appeal.

45. Firstly, he has asked for an explanation of how his requests have caused a disproportionate and unjustifiable level of distress, disruption and irritation, and how his requests are inappropriate. There is no obligation to provide an explanation or evidence when relying on section 14 FOIA (although it would be good practice to do so). We note that the Council did provide some explanation in its letter of 21 September 2021. This Tribunal cannot require the Council to provide any further explanation or evidence.

46. Secondly, he complains that there was no investigation of each individual request by the Commissioner. This appeal is against the outcome of the Decision Notices, not the way the Commissioner has reached his decision. We have conducted our own review of the facts and reached our own decision on the issues. The Appellant also says that he found the Decision Notices very disappointing. We do note that the conclusions of both Decision Notices are very short. They do not refer to the relevant legal tests in any detail or set out the history of the requests (such as by way of the table showing 23 requests provided in the Commissioner's first response). This gave the Appellant a limited opportunity to understand the Commissioner's reasoning. We hope that this decision provides the Appellant with more useful detail on how section 14 FOIA applies to his case.

47. We dismiss the appeal for the reasons given above.

Signed Judge Hazel Oliver

Date: 13 May 2023