

16 November 2016

Mrs J A Giggins  
By email: [request-330446-8a8d2233@whatdotheyknow.com](mailto:request-330446-8a8d2233@whatdotheyknow.com)

**Strategic Support**

Council Offices  
Market Street Newbury  
Berkshire RG14 5LD

**Our Ref:** FoI/IR/2016/14

**Your Ref:**

**Please ask for:** David Lowe

**Direct Line:** 01635 519817

**e-mail:** [david.lowe@westberks.gov.uk](mailto:david.lowe@westberks.gov.uk)

Dear Mrs Giggins,

**Internal review of your request (FOI 2016/724) for correspondence/representations regarding FOI 2016/407**

On 19 October 2016 you requested a review of the Council's response to your request for the 'correspondence/representations regarding FOI 2016/407'. In making your request you advised

*I don't believe Miss Kenchington has applied the 'vexatious' guidance correctly. There would be very little burden involved in publishing the representations which I presume are already held by the FOI department, and there is a clear public interest in demonstrating that EIR and FOI policy and procedures are well understood and adhered to by both Council Officers and Councillors.*

In reviewing the handling of your request, I have had cognisance of the Council's duties under the Freedom of Information Act 2000 and guidance issued by the Information Commissioner. I have also viewed your request in context with others you have made and the outcomes of decisions by the Information Commissioner and the First Tier Tribunal. My response is set out below.

Request 724 was made by you on 26 July 2016, the same day on which you advised (in correspondence with the Council on request 407) that

*In addition, as it seems from your earlier email that you may be taking instruction from Senior Officers and/or Councillors I shall put in [sic] a further request for any correspondence/representations held by the Council regarding your response/publication of the minutes.*

This comment appears to have been the product of some frustration with the time being taken by the Council in dealing with request 407.

You will recall that in case EA/2014/0075 the First Tier Tribunal supported both the Council and the Information Commissioner's view that a similar request you had made for any correspondence associated with the handling of a request on 8 June 2013 was indeed vexatious. In its conclusion and remedy, the Tribunal set out the findings below. I would draw your particular attention to paragraph 48.

*40. The Tribunal, having had the opportunity to hear from the Appellant and to read in detail all the information provided by her and the Council, observes that it is clear that she has lost trust and confidence in the Council's responses to her various requests.*

*41. The context and history in which the request was made is a major consideration because in the end it highlights issues of proportionality which lie at the heart of section 14 (1) vexatiousness.*

*42. She wants to see the history of an audit report through its various versions when the audit report itself has been published and made publicly available.*

*43. It is hard to see the value or public interest in requiring the Council to devote any resources to this.*

*44. The purpose of the request is purely personal and does not reflect matters of wider public interest. Public interest in the complaints procedure has been served by the Council providing the finalised audit report from the previous request.*

*45. Having considered all the papers in this matter, together with the Appellant's fears that there has been some kind of concealment by the Council because of her previous dealings with it, there is no evidence of any wrongdoing in respect of this particular issue on behalf of the Council*

*46. That has to be weighed into the balance of the purpose and value of the information request when that, in turn, is weighed in the context of the impact on the public authority and the distress, disruption or irritation that would be incurred by complying with the request.*

*47. From the decision notice it is clear that the Commissioner formed the view that the Appellant's contacts, correspondence, complaints and requests had already taken up a disproportionate amount of time in relation to the Council, diverting resources that would have been available to it to deal with other matters.*

*48. The Tribunal has arrived at the same conclusion. Simply because the Appellant no longer trusts what the Council says or does cannot give her a licence to make repeated information requests that, in themselves, lead to further requests.*

*49. This information request was correctly characterised as vexatious both by the Council and by the Commissioner. For all the reasons outlined above the Appellant's appeal fails.*

*50. Our decision is unanimous.*

For your convenience I have enclosed a copy of the decision.

The similarities between EA/2014/0075 and request 724 appear obvious to me and, further, subsequent to the submission of your request on 26 July 2016, the Council has in fact provided you a very significant amount of material in respect of request 407. It would be my view that if you believe the Council had not handled request 407 correctly then the proper course of redress would be through the request of a decision from the Information Commissioner, the mechanism and process for which I know you are very familiar.

I also note that in the intervening period since the publication of the decision on EA/2014/0075 and the submission of request 2016/724 you have made at least 7 other requests for information to this authority. This, when taken in conjunction with the points I have made above in my view provides further weight in support of Miss Kenchington's refusal of your request on 16 August 2016, in which she advised

*I believe that the purpose of this request is purely personal and intended only to attempt to prove the Council's wrong doing in the handling of your request and therefore, does not reflect matters of wider public interest. Public interest in the Planning Policy Task Group Minutes has been served by the publication of these minutes on the Fol disclosure log.*

*It is hard to see the value or public interest in devoting any further resources to this request.*

*Therefore, due to the context and history in which this request was made, we are refusing to supply any information in response on the grounds that Section 14(1) (Vexatious requests) of the Freedom of Information Act 2000 applies.*

This completes my review of your request. If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

[www.ico.org.uk](http://www.ico.org.uk)

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. W. Lowe', is displayed within a light gray rectangular box.

David Lowe  
Scrutiny & Partnership Manager

Enclosure    First Tier Tribunal Decision EA/2014/0075, 5 March 2014