

FOI REVIEW – DECISION NOTICE

1. Review of the request of Stuart Hardwicke Carruthers (FOI 19-281)

1.1 On 2 June 2019, South Norfolk Council received a Freedom of Information request from Stuart Hardwicke Carruthers, requesting the following information:

“ Please provide copies of your policies/procedures in relation to:

- a) Ensuring that there is not over-enforcement of planning enforcement notices;*
- b) Prosecuting planning enforcement notices that the Council is unable to prove beyond all reasonable doubt were issued and served by the Council.”*

2. Consideration

2.1 On 27 June 2019, the Senior Information Governance Officer and Deputy Monitoring Officer, Emma Goddard, contacted Mr Carruthers by e-mail to inform him that this request was regarded as vexatious.

2.2. The decision to rule this request as vexatious was made by the Council for the following reasons:

2.2.1 *“Unfounded accusations:* You have made many allegations/claims against the Council in relation to modifications made to the Council's enforcement register and notices. These accusations continue in this particular request. As you well know, the Council does not accept your claims and has not engaged in activities that you have accused us of. This has been subject of previous FOI requests and correspondence and in our opinion, make this request vexatious. Previous requests have been answered by stating that the information is not held due to the fact that you are seeking information which does not exist, which is based on your unfounded accusations and claims. This pattern of behaviour appears to be reoccurring and is demonstrated in this request, which can also demonstrate unreasonable persistence.”

2.2.2 *“Unreasonable Persistence:* This relates to requests that are used by the requester to reopen an issue which has already been addressed by the public authority or otherwise subjected to some form of independent scrutiny. I understand that Norwich Crown Court struck out your claim against the Council that included a reference to the mismanagement of the Council's enforcement registers. In addition, I have also stated that the subject of your request has been raised in many previous FOI requests.”

2.2.3 *"No obvious intent to obtain information:* This relates to requests that are used as a means to vent anger at a particular decision, or to harass and annoy the authority, for example, by requesting information which the authority knows the requester to possess already). Namely, you already know the Council's position relating to the Council's register of decisions. This has been the subject of legal cases that you have been involved in and therefore you are very much aware of this and the reasons why the Council is of a particular view."

2.3 Emma Pheby, Information Governance Manager, has identified that Mr Stuart Carruthers has a long history of allegations and complaints against South Norfolk Council some of which refer to modifications made to the Council's enforcement register and notices. Mr Carruthers has also made multiple Freedom of Information requests.

2.4 Each request will be reviewed on its own merits. As part of this internal review, Emma Pheby has considered the extent to which the complaints, requests and allegations detailed at paragraph 2.3 relates to the Freedom of Information request at paragraph 1.1 and whether this therefore amounts to a vexatious request.

3 Findings

3.1 Emma Pheby, Information Governance Manager, reviewed a selection of the relevant paperwork referred to in paragraph 2.3 this included correspondence between the requester and the Council in regards to a Freedom of Information request dated 26 April 2017 reference 17-279.

3.2 It is clear in the correspondence reviewed (including the letter referred to at paragraph 3.1) that the requester has previously made accusations against the Council in regards to their planning enforcement. It is further identified that the requester is aware of the presence of the Council's enforcement policy which is referred to in the requester's correspondence of 26 April 2017.

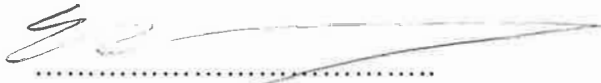
3.3 In the judgement of HM Attorney General v Carruthers and Carruthers [2015] 6668 it is detailed that *'Since about 2005 the Respondents have issued at least 10 claims against South Norfolk District Council in the High Court, County Court and Lands Chamber of the Upper Tribunal.'* Justice Cox goes on to state that these actions *'all appear to be connected directly to this property and the original dispute, tortious acts by the vendors and acts of fraud including maladministration including unlawful listed building enforcement action by officers of the Council, its legal advisers or others,'* and notes that *'None of them have succeeded.'* Mr Carruthers was declared a 'vexatious litigant.'

3.4 The request, as detailed at 1.1, is clearly connected to, and an attempt to re-open the issues connected to, the long list of actions pursued both within the Council's complaints system and within the court system as detailed at 3.3.

4. Decision

4.1 The Council's original decision is upheld.

Dated: 17 July 2019

A handwritten signature in dark ink, appearing to read 'Emma Pheby', is written over a horizontal dotted line.

Emma Pheby, Information Governance Manager

