



NCN: [2025] UKFTT 00506 (GRC)

Case Reference: FT/EA/2024/0362

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

**Heard by Cloud Video Platform  
Decision given on: 02 May 2025  
Amended Decision given on 16 June 2025  
Decision sent on 17 June 2025**

**Before**

**JUDGE SOPHIE BUCKLEY  
JUDGE SHENAZ MUZAFFER  
MEMBER KERRY PEPPERELL**

**Between**

**JONATHAN ELWORTHY**

Appellant

**and**

**THE INFORMATION COMMISSIONER**

Respondent

**and**

**EGERTON PARISH COUNCIL**

Second Respondent

**Amended under rule 40 of The Tribunal Procedure (First-tier Tribunal)(General Regulatory Chamber) Rules 2009**

**Decision:** The appeal is allowed as the Decision Notice contains an error of law. The Tribunal makes a Substituted Decision Notice, as follows:

1. The Tribunal finds that Egerton Parish Council was not entitled to rely on section 14(1) of the Freedom of Information Act 2000.

2. The Egerton Parish Council is required to take the following steps within 35 calendar days of the date that this decision is sent to the parties by the Tribunal.
3. The Egerton Parish Council is required to issue a fresh response to the Request, confirming whether it holds the information and must either:
  - i. Supply the information sought; or
  - ii. Serve a refusal notice under section 17 of the Freedom of Information Act 2000 including the grounds relied on other than section 14(1).
4. Any failure to abide by the terms of the Tribunal's substituted decision notice may amount to contempt which may, on application, be certified to the Upper Tribunal.

## REASONS

1. This is an appeal against a decision of the Information Commissioner (the "Commissioner") dated 21 August 2024, reference IC-303456-D2W1 (the "Decision Notice").
2. A hearing took place via CVP on Wednesday 23 April 2025. The Appellant represented himself. The first Respondent did not attend. The Second Respondent was represented by Mr J. Lawton, Chair of the Egerton Parish Council. Mr P. Rawlinson, Vice-Chair of the Egerton Parish Council, also gave evidence on behalf of the Second Respondent.

### Factual background

3. The appeal relates to the application of the Freedom of Information Act 2000 ("the FOIA"). It concerns information held by the Egerton Parish Council ("the Council").

### The requests and responses

4. The Appellant made the request ("the Request") which is the subject of this appeal on 20 February 2024 in writing as follows:

*"I would be grateful if you take this email as a formal Freedom of Information request for all written advice given by the Parish Council's professional advisors (planning consultants, solicitors and barristers) on the Planning Appeal on the North Field development and also on the application for a Judicial Review of the Inspectors decision and the subsequent Court hearing appealing against the Judicial Reviews refusal".*

5. The Appellant sent further emails to the Council on 13 March 2024, 20 March 2024, and 11 April 2024, seeking an acknowledgment of his email of 20 February 2024 and provision of the requested information.
6. The Council responded in writing on 17 April 2024, stating:

*"Your request is deemed by the Parish Council to be vexatious and is refused Under Section 14(1) of the Freedom of Information Act.*

*In considering your request and determining whether it is vexatious the Council has considered the following:*

- 1. Can the request be fairly seen as obsessive?*
- 2. Is the request harassing the authority or causing distress to staff?*
- 3. Would complying with the request impose a significant burden in terms of expense and distraction?*
- 4. Is the request designed to cause disruption or annoyance?*
- 5. Does the request lack any serious purpose or value?*

*The Council's view is that all of these questions can be answered 'yes' and that you and your wife have conducted a concerted campaign to disrupt the legal business of the Council which started with Mrs Elworthy's resignation from the previous Council in August 2021 and has recently escalated with Mrs Elworthy's emails of the 18<sup>th</sup> February 2024 to several parishioners, and your campaign on Social Media to disrupt a properly called meeting of the Council on 21<sup>st</sup> February".*

7. The Appellant requested an internal review of the decision to withhold the requested information on 19 April 2024. He disputed that the request was vexatious and responded to the five questions that the Council had outlined in their response as follows:

*"I would comment as follows on the five points you highlight:*

- 1. Can the request be fairly seen as obsessive? This is only the 2<sup>nd</sup> time in 34 years of living in the village that I have felt the need to resort to a Freedom of Information ('FOI') request to try and obtain information from the Parish Council. This does not qualify as 'obsessive'.*
- 2. Is the request harassing the authority or causing distress to staff? I cannot see how a simple FOI request can be seen as either harassing the authority or causing distress to staff.*
- 3. Would complying with the request impose a significant burden in terms of expense and distraction? Complying with this request would simply mean attaching a small number of pdfs to a reply email, an act which should take minutes.*
- 4. Is the request designed to cause disruption or annoyance? No, it is simple [sic] a request to see information which I believe everyone in the village should see. The information requested led to a considerable sum of taxpayers money being expended and I believe villagers deserve to see the advice that led to this course of action.*
- 5. Does the request lack any serious purpose or value? See my response to 4. above".*

8. The Appellant also stated that the request had been made in his name and was nothing to do with his wife, and he denied the suggestion that he was seeking to disrupt the legal business of the Council.
9. The Council responded on 24 April 2024, upholding the initial decision to refuse the request pursuant to section 14(1) FOIA, and stating:

*"1. The current clerk's recent absence from work is as a direct consequence of yours, and others, cumulative actions of harassing and bullying behaviour towards the Clerk and the Council. This has resulted in the clerk being signed off by her doctor for 4 weeks and the closure of the parish office. In addition, and as you are aware, I have requested that any correspondence from you be sent to me directly. These steps have been necessary for the Council to protect the health and well-being of its staff.*

*2. What you purport to be enquiries in the interest of openness and transparency, whilst at an individual level may be that, cumulatively they are not. They are in the Council's view a concerted campaign to try and establish detail which you will use in an effort to undermine the Council and its reputation.*

*3. Contrary to your oft stated aims to be acting in the interests of parishioners, the accumulation of your correspondence and requests has cost council taxpayers considerable sums in both direct and indirect costs and the time taken to deal with persistent enquiries and challenges has delayed the Council from its core purpose in the delivery of services to the village".*

10. On 26 April 2024, the Appellant lodged a complaint with the Commissioner in relation to the refusal of the Council to provide the information that he had sought in his request.

### **Decision notice**

11. The Commissioner decided that the Request was vexatious, and that the Council was therefore entitled to rely on section 14(1) FOIA 2000 to refuse it. He did not require the Council to take any steps.

12. In summary, the reasons for the Commissioner's decision were:

- a. Whilst the Commissioner accepted the importance of transparency over public matters being dealt with by a Parish Council, the Commissioner noted that the complainant had made multiple enquiries to the Council over a period of three years and had received responses to them;
- b. The Commissioner took the view that the complainant *"has certain concerns which have become personal to them, and go beyond a general public interest in transparency and accountability"*;
- c. The Council is a small organisation with very limited resources. As such, the threshold at which the burden becomes grossly oppressive is lower than for a larger public authority;

- d. The Commissioner considered, given the context and history of the request, including the burden on the Council, that the distress, disruption or irritation that would be incurred by complying with the request would be significant;
- e. The Commissioner concluded that the high bar contained within section 14(1) FOIA, whereby the Council must demonstrate why it considers that the request was disproportionate, manifestly unjustified, inappropriate or an improper use of FOIA, was met.

### **Grounds of appeal**

13. The Appellant appealed on 09 September 2024

14. The Grounds of Appeal are, in essence, that:

- a. The Commissioner was wrong to conclude that the complainant had made multiple enquiries over a period of three years, such that the latest request was rendered vexatious;
- b. There was no evidence on which the Commissioner could have properly formed the view that the complainant had certain personal concerns which went beyond a general public interest in accountability;
- c. The Commissioner had wrongly accepted the evidence of the Council as to the burden that had been placed on the Council in responding to requests from the Appellant;
- d. The Commissioner had formed his opinion "*on erroneous and unevidenced claims by the Parish Council*".

### **The response of the Commissioner**

15. The Commissioner's response, dated 30 September 2024, maintains that the Decision Notice was correct. He places reliance on the Court of Appeal decision in *Dransfield v Information Commissioner & Devon County Council* [2015] EWCA Civ 454 (which he noted did not depart from the Upper Tribunal findings in *Information Commissioner v Dransfield* [2012] UKUT 440 (AAC)).

### **The Appellant's reply to the Commissioner's response**

16. In his reply dated 09 January 2025, the Appellant stated that his request for the legal advice that justified the Council spending a significant portion of the annual precept was reasonable. He stated that the Council's initial estimate that the clerk was spending one third of her time (which would amount to over 700 hours over a three-year period) was a significant over-estimation, and that the time involved in dealing with all of his correspondence over that period would have been extremely limited. He asserted that the limited correspondence from him was evidence of a member of the public who was actively involved in the village and who asked reasonable and legitimate questions of the Council, rather than demonstrating a pattern of frequent

and persistent correspondence on the same or similar matters. He denied that his correspondence, which he stated were always polite and did not contain any threats or aggression, could be viewed as being part of a campaign of harassment.

## **Legal Framework**

17. The relevant provisions of FOIA are as follows:

### **s.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.

.....

### **s.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.
- (2) Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

18. Section 17 provides, so far as relevant:

### **s.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 applicant 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 applicant 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.

19. The FOIA does not provide any assistance as to what is meant by ‘vexatious’. The Upper Tribunal gave guidance in *Information Commissioner v Devon County Council and Dransfield* [2012] UKUT 440 (AAC), as upheld and clarified by the Court of Appeal in *Dransfield v Information Commissioner and Devon County Council* [2015] EWCA Civ 454.
20. As noted by Arden LJ in her judgment in the Court of Appeal 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 Upper Tribunal sets out more detailed guidance that was not challenged in the Court of Appeal. The ultimate question is, “is the request vexatious in the sense of being a manifestly unjustified, inappropriate or improper use of FOIA?” (para 43). In the context of reviewing the Commissioner’s Guidance, Judge Wikeley highlighted “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” (para 45). Arden LJ in the Court of Appeal also emphasised that a “rounded approach” is required (para 69).
22. The Upper Tribunal 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, the Upper Tribunal observed that “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 of the request.**  
Regard should be had to the inherent value of the request, specifically “does the request have a value or serious purpose in terms of the objective public interest in the

*information sought?” (para 38), albeit that a lack of apparent objective value cannot provide a basis for refusal on its own.*

**d. Any harassment of, or distress caused to, the public authority’s staff.** 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), although this is not a prerequisite for concluding that a request is vexatious.*

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” (Upper Tribunal, para 10).*

### **The role of the Tribunal**

24. The Tribunal’s remit is governed by section 58 FOIA. This requires the Tribunal to consider whether the decision made by the Commissioner is in accordance with the law or, where the Commissioner’s decision involved an exercise of his discretion, whether he ought to have exercised it differently. The Tribunal may receive evidence that was not before the Commissioner and may make different findings of fact from the Commissioner.

### **Issues**

25. The issue for the tribunal to determine is whether the Information Commissioner’s Decision Notice was in accordance with the law and whether the Information Commissioner was correct in upholding the decision of the Council to rely on section 14(1) in refusing or not responding to the Appellant’s two Requests.

### **Evidence**

26. We read and took account of the following material:

- i. An open bundle containing 748 pages including indexes;
- ii. A closed bundle;
- iii. Appellant’s supplemental bundle re section 50 FOIA documents;
- iv. Appellant’s supplemental bundle re response to allegations;
- v. A witness statement from Mr J. Lawton;
- vi. A witness statement from Mr P. Rawlinson;
- vii. An addendum to exhibit 17 on behalf of the Second Respondent;
- viii. A skeleton argument on behalf of the Appellant;
- ix. A skeleton argument on behalf of the Second Respondent.



27. We also heard evidence from the Appellant, Mr J. Lawton and Mr P. Rawlinson.

### **Discussions and conclusions**

28. The Tribunal considered the non-exhaustive list of issues as set out by the Upper Tribunal in *Dransfield* and the overall circumstances of the case, including the history of the relationship between the Appellant and the Council.

29. **The burden imposed on the public authority by the request.** This is a key factor relied upon by the Council. Whilst the mere fact that responding to a request may be burdensome, that in itself does not absolve the Council from their legal obligations under FOIA.

30. The Tribunal has taken the previous dealings between the Appellant and the Council into account when assessing whether the Request is vexatious. The Tribunal notes that there is some discrepancy as to the number of emails that were sent by the Appellant between 07 February 2021 and the date when his FOIA request should have been answered, namely 19 March 2024. In the bundle of documents submitted to the Commissioner, the Council initially asserted that the Appellant had sent seventy-five emails from June 2021 onwards. However, during the hearing Mr J. Lawton estimated that the figure was forty-five emails, and the Council's 'addendum to document (Exhibit 17)' lists forty-seven emails. By contrast, the Appellant estimates that he has sent approximately thirty-seven emails within the relevant timeframe. The Tribunal notes that approximately thirty-three emails have been provided in full in the various documentation before us. Whilst we don't make a finding on the specific number of emails sent by the Appellant from February 2021 onwards, we are satisfied that it is in the region of the high thirties, and certainly not the seventy-five emails that formed part of the Council's initial documentation.

31. In their initial submissions to the Commissioner, the Council estimated that around a third of the clerk's time per week was used in dealing with correspondence from the Appellant. The clerk worked for seventeen hours per week, meaning that approximately five hours per week would have been spent on queries and emails from the Appellant. At document C505 of the open bundle onwards, the clerk has estimated the amount of time that has been taken to respond to emails and social media posts from the Appellant. We do not accept that the estimates that have been put forward are an accurate reflection of the time that was, in fact, taken to respond to the Appellant's correspondence – for example, it is asserted that a total of five-and-a-half hours was required between the clerk and councillors to respond to a request made by the Appellant that resulted in an email being sent to him to inform him that his query would be dealt with in the new year. We agree with the concession made by Mr J. Lawton in evidence that the figures provided are over-estimates.

32. The Tribunal has reviewed the content of all of the emails that have been provided to us. We note that approximately nine of the emails can be categorised as 'follow-up' emails where no response to the initial email had been forthcoming from the Council. We also note that some of the emails can properly be described as

‘innocuous’ referring, for example, to the website being down or arrangements for the viewing of annual accounts. The substantive requests made by the Appellant from 2021 onwards fall into three main categories – (i) the rise in the Parish precept (ii) the purpose of two specific invoices which were not detailed in the public accounts and (iii) the Judicial Review of the decision of the Planning Inspector for the North Field site. There are only two substantive requests that were made by the Appellant relating to the North Field site – a request for copies of court papers and judgments, and the request that is the subject of this appeal. The Tribunal therefore does not accept the assertion of the Council that the request that is the subject of this appeal is “*part of a pattern of requests for information in relation to the same or similar matters*”.

33. We note that the Council recognises that “*complying with this specific request would not impose an onerous burden in itself*” (see C529 of the open bundle). We agree with that assessment – the request is not burdensome in and of itself.
34. The Tribunal accepts that there is a burden placed on a Council in responding to strong challenge from parishioners on varying topics. However, having regard to the number of emails sent by the Appellant over three years, the content of those emails, the time that would have been taken to respond to them and the fact that the requests do not form a pattern of requests for information in relation to the same or similar topics, we are not satisfied that the burden imposed on the Council by this request is oppressive, either when viewed in isolation or against the background of the previous requests.
35. **The motive of the requestor.** It is the case generally that the application of FOIA and any request made under it is not dependant on the motive behind the request. However, section 14 is an exception to this principle. The motive of the requestor can be an important factor as to whether a request is vexatious in the wider context of the dealings between an individual and a public authority. In this case, the Appellant says that his motive for making the request relates to concerns that he has about the decision of the Council to seek a Judicial Review of the Planning Inspector’s decision and the associated financial risk relating to costs of any legal proceedings. He asserts that the legal advice that was relied upon by the Council should be in the public domain for the purposes of accountability and transparency over the Council’s conduct.
36. The Council asserts that the request is part of a concerted campaign by the Appellant to try and establish details which will be used by the Appellant to undermine the Council and its reputation. The Council referred in their submissions to “*a campaign waged by Jonathan Elworthy and his wife on a number of fronts*”, including in relation to the volume of email correspondence, a social media campaign, and the large number of topics covered by the requests. The Council also assert that the Appellant is working in concert with a third party to undermine them.

37. We are not satisfied that this request is part of a deliberate campaign by the Appellant, his wife, or a third party to undermine the workings of the Council. We do not find that there is evidence of collusion between the Appellant and his wife, or with a third party. Having reviewed the documentary evidence and heard evidence from the Appellant, we are satisfied that the motive of his request is to ensure that the Council is held accountable for the spending of a significant amount of taxpayer's money. We are satisfied that the request was a legitimate enquiry for a parishioner to make, and that a parishioner is entitled to appropriately challenge a decision that has been taken by a Council in relation to the spending of the Parish precept.
38. **Value or serious purpose:** We are satisfied that there is a clear public interest in the accountability and transparency of Council decisions, particularly where the spending of public funds are involved. The approximate financial liability of the Council in pursuing the application for Judicial Review is in the region of £34,000 to £37,000, amounting to over 75% of the annual Parish Precept for 2023-2024. Whilst we accept that this figure was greatly reduced as a result of private donations, the amount that fell to be funded by the Council was still around 35% of the initial cost. The Tribunal is of the view that, in the circumstances of this case, the Appellant was entitled to seek to hold the Council to account for the spending of significant public funds. We are satisfied that his questions relating to the basis for the spending of a significant portion of the Parish precept were legitimate and therefore had a serious purpose and value.
39. **Any harassment of, or distress caused to, the public authority's staff.** We have carefully considered the material before us relating to the complaint by the clerk about the conduct of the Appellant and the impact on her. We fully recognise that the clerk has found her direct and indirect engagement with the Appellant to be stressful and that she perceives that it has had a detrimental impact on her health. However, we do not find evidence before us that can objectively be construed as either harassing or bullying behaviour by the Appellant. Whilst we note that he is a prolific user of social media in relation to matters affecting the village, we do not find that there is content within those posts that could amount to bullying or harassment of the clerk or councillors – rather, the posts demonstrate a parishioner who has robust views about local matters. Similarly, we have reviewed the content of all of the emails that have been provided to us and do not find anything contained within them that would amount to inappropriate language or tone – to the contrary, they are all very polite in both their tenor and in the words used.
40. Having considered all of the circumstances of this case, the Tribunal does not find that the Request is vexatious. Accordingly we find that the Council was not entitled to rely on section 14(1) FOIA to refuse to reply to the request of 20 February 2024.

## Conclusion

41. The Tribunal allows the appeal for the reasons given above and makes a Substituted Decision Notice in the terms outlined above.

Signed: Judge Shenaz Muzaffer

Dated: 02 May 2025

Amended: 16 June 2025