

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 June 2022

Public Authority: Lydd Town Council
Address: Guild Hall
13 High Street
Lydd
TN29 9AF

Decision

1. The complainant has submitted multiple requests for information to Lydd Town Council ("the Council"). The Commissioner's decision is that the Council is entitled to rely on section 14(1) (vexatious request) of the FOIA to refuse to provide the requested information.

Request and response

2. The complainant submitted the following request for information to the Council on 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."

3. On 27 July 2021, the complainant submitted the following request for information to the Council:

"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."

4. The complainant submitted a further request for the following information to the Council on 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."

5. On 20 September 2021, the complainant made the following request for information to the Council:

"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: [name redacted] 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."

6. The Council refused to provide the information requested in all four requests citing section 14(1) (vexatious request) of the FOIA as its basis for doing so.

Reasons for decision

7. This reasoning covers whether the Council is entitled to rely on section 14(1) of the FOIA to refuse to provide the requested information.
8. The position of the Council is that it 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.
9. The Council states that the complainant is part of [group name redacted], a group who have submitted a large number of requests to the Council. It explained that 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.

10. The Commissioner is aware that the Council has received a large number of requests from [group name redacted] as the Commissioner has received multiple complaints from members of the Group about the Council's handling of requests.
11. The Commissioner recognises that the Council is a small public authority. He therefore accepts the Council's argument that complying with the requests would place severe pressure on the Council's limited resources.
12. The Commissioner's decision is that the four requests are vexatious. Therefore, the Council is entitled to rely on section 14(1) of the FOIA to refuse to comply with the requests. The Commissioner requires no further action to be taken by the Council in relation to the requests.

Right of appeal

13. 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: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

14. 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.
15. 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

Ben Tomes
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF