



Neutral citation number: [2023] UKFTT 01002 (GRC)

Case Reference: EA/2023/0095

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

**Heard: On the papers  
Heard on: 14 November 2023  
Decision given on: 29 November 2023**

**Before**

**TRIBUNAL JUDGE SOPHIE BUCKLEY  
TRIBUNAL MEMBER PAUL TAYLOR  
TRIBUNAL MEMBER DAVE SIVERS**

**Between**

**KULDEEP SINGH**

Appellant

**and**

**THE INFORMATION COMMISSIONER**

Respondent

**Decision:** The appeal is Dismissed.

## **REASONS**

### **Introduction**

1. This is an appeal against the Commissioner's decision notice IC-188871-T2H3 of 24 January 2023 which held that the Council of the University of Herefordshire ('the University') were entitled to rely on section 14(1) of the Freedom of Information Act 2000 (FOIA).
2. The Commissioner did not require the public authority to take any steps.

## Background to the appeal

3. The appellant has submitted an undated, unheaded letter from a member of staff based in the Student Centre (in 'tier 4 compliance') at the University ('the CAS/tier 4 letter'). The letter was labelled 'Evidence 1 Public Authority refuses to amend their records'. It appears to be addressed to another student. It states:

"A [redacted],

Thank you for coming into the student centre today, just to confirm our conversation regarding your CAS:

Your school office have confirmed the modules you are repeating in 2017/18, and the following modules has been confirmed as a 30 credit

module:

Computer Science Development Exercise module (5COM1053) is a 30 credit module and not a 15 credit modules

You are now repeating 90 credits in total, this means you are will be liable for the full times fees of

£11,500.00. I have spoken [redacted] in the International Student Support team, regarding the increase of tuition fees. They have looked at your bank statements, and unfortunately you will not have enough money in your bank account to show for the increase

in fees and maintenance. We have decided not to amend your CAS, to show a fee increase, as we are worried you might receive a refusal on grounds of finances. As I explained to you earlier your CAS will remain with tuition fees due as £6975.00, but please be aware you will be invoiced for

the full amount of £11,500.00 for this academic year studies.

I have told [redacted] in ISS, that I have seen you and explained everything to you, and she will see you on Friday at your appointment.

Kind Regards

[redacted]

Tier 4 Compliance

...

Student Centre, Hutton Hub, University of Hertfordshire, College Lane, Hatfield ..."

4. The appellant has an ongoing dispute with the University about its refusal to register him for the second year of his degree course in 2016 because they said that he had paid his fees late. The University informed the Home Office that the appellant had deferred his studies.

### **Request, Decision Notice, and appeal**

#### *The request and the response*

5. The appeal relates to part (f) of a multipart request made on 26 December 2021. That request, along with the University's first response dated 27 January 2022 (in bold) was as follows:

“(a) Provide the full Details of all (registered and unregistered) university offices in India, Pakistan, Bangladesh, Sri Lanka since 01 September 2013 - 16 December 2021.

#### **Not applicable**

(b) Provide the full details of all (registered and unregistered) university education consultants/ agents in India since 01 September 2013 16 Dec 2021.

(c) What is the revenue generated from Indian International students from 01 September 2013- 16 December 2021. Please provide a different response for each year.

**We are unable to disclose the requested information for questions (b) and (c) as we consider this to be commercially sensitive by virtue of Part II (S43) of the Freedom of Information Act 2000 (FOIA). Disclosure of this information would potentially alert competitors to our recruitment and commission models and, as we rely on agents for recruitment, it could have a significant impact on our international recruitment, potentially resulting in disadvantageous financial implications for the University.**

**Please be advised that details of agents that work with multiple Universities are already available on our website.**

(d) Is University had or facing any complaints in India Supreme court, High courts and in India Ministry of Education ? If yes - please provide the information with reference number.

**No**

(e) What is the total cost spend on advertising for the university in India since 01 September 2013 - 16 December 2021.

**We consider this information to be commercially sensitive by virtue of Part II (S43) of the FOIA as it would alert competitors to how much promotion we do in the country.**

(f) Did university was allowed to write the different amount on the continuing international student/s CAS (which is different from the university invoice; real

owing money towards the student) in order to approve the visa. Please provide the details from 01 September 2013- 16 December 2018. If yes- How many times university did the same as mentioned above.

**We state the fees on the CAS for continuing students.”**

6. On 4 February 2022 the appellant sought further clarification. That request for clarification, along with the University’s response of 23 February 2022 (in bold) was as follows:

“(1) Please provide the link of university agents in India since 01 September 2013-16 Dec 2021.

**Information about local representatives in India can be found at**

**<https://www.herts.ac.uk/international/ne...>**

(2) The response is not relevant for point(f). It is already known that university state the fees on the CAS for continuing students but the request was made on the point that “whether university stated a different £ fee amount (consider less amount) on the student CAS , but invoiced student real fee (consider more amount) ONLY in order to make sufficient balance (without change) for 28 days as per the CAS stated for the student so that your sponsor student will get Tier4 visa.

**The fee stated on the CAS for a student needing to renew their visa will be the fee the student is liable for in order to continue with their studies. If they are extending their visa in order to resit then the resit fee will be quoted. If they need to repeat, then fees for that academic year will be quoted. This will not be different to the fee on the invoice.**

If you did same, was university allowed to do so and how many times university did the same?

**See above response. N/A”**

7. The appellant wrote again to the University on 8 July 2022 as follows:

“In relation to point (f), university is whether wrong or purposely made an attempt to mislead me and Public. Could you please correct it to avoid me to taking further actions against you as per the FOIA rules (here). I have found that university could write the different amount on international students CAS- contrary to the students actual fee invoice. Please inform me if you need an evidence to verify my statement.”

8. The tribunal does not have all the subsequent correspondence, but after a number of further written exchanges, the University informed the appellant on 29 July 2022 that they were refusing the request under section 14 FOIA because it was vexatious.

9. The appellant referred the matter to the Commissioner, who asked the University to conduct an internal review. On 30 September 2022 the University upheld their refusal on internal review.

### ***The decision notice***

10. In a decision notice dated 24 January 2023 the Commissioner decided that the University was entitled to rely on section 14 FOIA.
11. The Commissioner notes that the appellant has been in dispute with the University since 2016 and since they were withdrawn as a student due to their failure to pay tuition fees on time. They have used the University's internal complaints procedure, submitted a complaint to the Vice Chancellor, referred the matter to the OIA and engaged solicitors all to no avail. Despite the outcome the appellant has received from a number of different channels (all rejecting their claims of wrongdoing) they refuse to consider this to be the end of the matter. The appellant's behaviour seems to suggest that regardless of the information disclosed and the response they receive, they will continue with this campaign placing even more burden on the University for a claim that the University states has been robustly denied and defended from 2016 onwards.
12. The appellant's continuing behaviour is now placing an unjustifiable burden on the University and is causing disruption, irritation and distress. It is not an appropriate or justifiable use of FOIA. For these reasons, the Commissioner is satisfied that section 14(1) applies.

### ***Notice of appeal***

13. In essence, the grounds of appeal are:
  - 13.1. The request has no connection to the appellant's dispute with the University
  - 13.2. The University would not face a burden in responding, because the appellant had simply asked the University to change their records and response for the public, especially students.

### ***The Commissioner's response***

14. The Commissioner opposes the appeal and stands by his DN. The Commissioner submits that in all the circumstances of this case the request was vexatious further to the binding case law set out by the Court of Appeal in *Dransfield v Information Commissioner & Devon County Council* [2015] EWCA Civ 454 (and which did not depart from the Upper Tribunal findings in *Information Commissioner v Dransfield* [2012] UKUT 440 (AAC)).
15. If, contrary to the Commissioner's position, the Tribunal concludes that the request is not vexatious under s. 14(1) FOIA, the Commissioner would invite the Tribunal to order steps obliging the public authority to issue a fresh response to the request not relying upon s. 14(1) FOIA

### ***The appellants' reply/submissions dated 13 July 2023 and 6 November 2023.***

16. We have taken account of the emails of the appellant where relevant to the issues we have to determine.

*Further email/evidence from the appellant dated 22 November 2023*

17. After the tribunal's deliberations but before this decision was written, the appellant sent a further email with an order from the Master in the proceedings. The Judge considered the email and decided that it would not have had an influence on the decision, because the tribunal accepted that the subject matter of this request did not relate directly to the dispute in 2016 concerning to the actions taken by the University in response to the late payment of fees by the appellant.

**Issues**

18. The issue for the tribunal to determine is whether or not the request is vexatious within section 14 FOIA.

**Legal framework**

*S 14(1) Vexatious Request*

19. Guidance on applying section 14 is given in the decisions of the Upper Tribunal and the Court of Appeal in **Dransfield** ([2012] UKUT 440 (AAC) and [2015] EWCA Civ 454). The tribunal has adapted the following summary of the principles in **Dransfield** from the judgment of the Upper Tribunal in **CP v Information Commissioner** [2016] UKUT 427 (AAC).
20. The Upper Tribunal held that the purpose of section 14 must be to protect the resources of the public authority from being squandered on disproportionate use of FOIA (para 10). That formulation was approved by the Court of Appeal subject to the qualification that this was an aim which could only be realised if 'the high standard set by vexatiousness is satisfied' (para 72 of the CA judgment).
21. The test under section 14 is whether the request is vexatious not whether the requester is vexatious (para 19). The term 'vexatious' in section 14 should carry its ordinary, natural meaning within the particular statutory context of FOIA (para 24). As a starting point, a request which is annoying or irritating to the recipient may be vexatious but that is not a rule.
22. Annoying or irritating requests are not necessarily vexatious given that one of the main purposes of FOIA is to provide citizens with a qualified right of access to official documentation and thereby a means of holding public authorities to account (para 25). The Commissioner's guidance that the key question is whether the request is likely to cause distress, disruption, or irritation without any proper or justified cause was a useful starting point as long as the emphasis was on the issue of justification (or not). An important part of the balancing exercise may involve consideration of whether or not there is an adequate or proper justification for the request (para 26).
23. Four broad issues or themes were identified by the Upper Tribunal as of relevance when deciding whether a request is vexatious. These were: (a) the burden (on the public authority and its staff); (b) the motive (of the requester); (c) the value or serious purpose

(of the request); and (d) any harassment or distress (of and to staff). These considerations are not exhaustive and are not intended to create a formulaic check-list.

24. Guidance about the motive of the requester, the value or purpose of the request and harassment of or distress to staff is set out in paragraphs 34-39 of the Upper Tribunal's decision.
25. As to burden, the context and history of the particular 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 the request is properly to be described as vexatious. In particular, the number, breadth, pattern, and duration of previous requests may be a telling factor [para 29]. Thus, the greater the number of previous FOIA requests that the individual has made to the public authority concerned, the more likely it may be that a further request may properly be found to be vexatious. A requester who consistently submits multiple FOIA requests or associated correspondence within days of each other or who relentlessly bombards the public authority with email traffic is more likely to be found to have made a vexatious request [para 32].
26. Ultimately the question was whether a request was a manifestly unjustified, inappropriate, or improper use of FOIA. Answering that question required a broad, holistic approach which emphasised the attributes of manifest unreasonableness, irresponsibility and, especially where there was a previous course of dealings, the lack of proportionality that typically characterises vexatious requests (paras 43 and 45).
27. In the Court of Appeal in **Dransfield** Arden LJ gave some additional guidance in paragraph 68:

“In my judgment the Upper Tribunal was right not to attempt to provide any comprehensive or exhaustive definition. It would be better to allow the meaning of the phrase to be winnowed out in cases that arise. However, for my own part, in the context of FOIA, I consider that the emphasis should be on an objective standard and that 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. If it happens that a relevant motive can be discerned with a sufficient degree of assurance, it may be evidence from which vexatiousness can be inferred. If a requester pursues his rights against an authority out of vengeance for some other decision of its, it may be said that his actions were improperly motivated but it may also be that his request was without any reasonable foundation. But this could not be said, however vengeful the requester, if the request was aimed at the disclosure of important information which ought to be made publicly available...”

28. Nothing in the above paragraph is inconsistent with the Upper Tribunal's decision which similarly emphasised (a) the need to ensure a holistic approach was taken and (b) that the value of the request was an important but not the only factor.

29. The lack of a reasonable foundation to a request was only the starting point to an analysis which must consider all the relevant circumstances. Public interest cannot act as a ‘trump card’. Rather, the public interest in the subject matter of a request is a consideration that itself needs to be balanced against the resource implications of the request, and any other relevant factors, in a holistic determination of whether a request is vexatious.

### The role of the tribunal

30. The tribunal’s remit is governed by s.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 exercising discretion, whether he should 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.

### **Evidence**

31. We read and took account of an open bundle. We had before us and took account of, where relevant, the following additional documents filed by the appellant (some entitled by the appellant):
- 31.1. Evidence 1 – Public authority refuses to amend their records
  - 31.2. Evidence 2 – letter by public authority 28.11.22
  - 31.3. Evidence 3 – response to authority
  - 31.4. KB-2022-003298 Singh v University of Hertfordshire court bundle
  - 31.5. 19/6/2023 Sealed order of Master Davidson
  - 31.6. Letter sent to court dated 29 September 2023
  - 31.7. Letter HMCTS to appellant dated 3 November 2023
  - 31.8. Skeleton argument in KB-2022-003298
  - 31.9. Grounds of appeal in KB-2022-003298

### **Findings of fact**

32. We make the following findings of fact based on the evidence before us on the balance of probabilities.
33. The following timeline was provided by the University at page D86-D88. We accept that this accurately reflects the course of dealings between the appellant and the University up to December 2022. We have added the request and responses under consideration in this appeal and these are set out in bold.

Date:	Action:
8 March 2016	Email to Mr Singh from University advising a deposit of £5,000 was payable ahead of his transfer to the BEng programme at the University.
16 August 2016	Email reminder to Mr Singh to say that deposit was due.
15 September 2016	Email from Mr Singh to say he could only pay 50%.



20 September 2016	Email to Mr Singh to say he needed to pay the full £5,000 deposit.
5 October 2016	Email from Mr Singh withdrawing himself from the programme and saying he was looking to start at a different university.
10 October 2016	University Head of Student Finance agrees that if Mr Singh could pay £2,875 (25%), he could register on the programme. The University told Mr Singh that the last date for registration was that day.
18 October 2016	The University receives £1,335 from Mr Singh.
20 October 2016	The University Student Finance department confirms it has received £1,335 and requests confirmation that the rest has been sent by Mr Singh's family.
21 October 2016	The University reports to UKVI that Mr Singh has not enrolled on its programme and is deferring his studies.
25 October 2016	The University informs Mr Singh that it is too late for him to join the programme.
8 November 2016	The University receives a FOI request from Mr Singh (UHRFI002043).
7 December 2016	The University responds to Mr Singh's FOI request (UHRFI002043).
9 December 2016	Mr Singh sends a set of follow-up questions to his FOI request (UHRFI002043).
12 December 2016	The University acknowledges receipt and treats the new questions as a new FOI request (UHRFI002062). It asks for clarification on some of the questions.
13 December 2016	Mr Singh asks how many FOI requests he may ask and reveals that he is seeking to build a case to bring a complaint against the University. The University confirms that he may bring any number of requests, but cannot ask substantially the same question.
15 December 2016	Mr Singh submits further questions, asking for a University contract, and international student information.
10 January 2017	Mr Singh lodges a formal complaint with the University.
11 January 2017	The University responds to Mr Singh's FOI questions of 15 December 2016. It relies on the section 43 exemption in relation to the contract.
13 January 2017	Mr Singh writes to request the contract again and makes allegations about the information provided to international students. The University reiterates its response of 11 January 2017. Mr Singh indicates that he is not happy and intends to raise concerns with the ICO.
27 January 2017	The University writes with the outcome of its investigation of the complaint – not upheld.
February 2017	Mr Singh requests a review of the outcome of the complaint by the Vice-

Chancellor.

31 March 2017	The Vice-Chancellor confirms that he has not upheld the complaint.
Sept/Oct 2017	Mr Singh attempts and again fails to join the University programme.
29 March 2018	The OIA receives a complaint from Mr Singh.
April 2018	The OIA finds that Mr Singh's complaint is only partly eligible for consideration.
30 April 2018	Mr Singh submits a new FOI request (UHRFI002357).
1 May 2018	The University acknowledges Mr Singh's FOI request (UHRFI002357).
9 May 2018	The University requests clarification regarding Mr Singh's FOI request (UHRFI002357).
15 May 2018	Mr Singh complains about the OIA's decision on eligibility.
25 May 2018	The OIA rejects Mr Singh's complaint about eligibility.
25 October 2018	The OIA finds that Mr Singh's actual complaint about the University is Not Justified.
Nov/Dec 2018	Mr Singh seeks to re-open his complaint with the OIA.
3 January 2019	The OIA rejects Mr Singh's attempt to reopen his complaint.
17 February 2020	Mr Singh submits a new FOI request (UHRFI002761).
18 February 2020	The University acknowledges Mr Singh's FOI request (UHRFI002761).
26 March 2020	The University apologises for the delay in responding to Mr Singh's FOI request (UHRFI002761) as a result of the pandemic lockdown. The University also provides a timescale for response.
3 April 2020	The University provides an update in relation to delays to responses to FOI requests.
9 April 2020	The University responds to Mr Singh's FOI request (UHRFI002761).
30 August 2020	Mr Singh submits a new FOI request (UHRFI002875).
7 September 2020	The University acknowledges Mr Singh's FOI request (UHRFI002875).
24 September 2020	The University responds to Mr Singh's FOI request (UHRFI002875).
24 September 2020	Mr Singh submits follow-up questions to his FOI request (UHRFI002875).

13 October 2020	The University acknowledges Mr Singh follow-up questions to his FOI request (UHRFI002875).
2 November 2020	Mr Singh requests an internal review in relation to his FOI request (UHRFI002875).
6 November 2020	The University responds to Mr Singh's FOI request (UHRFI002875).
20 January 2021	Mr Singh submits a new FOI request (UHRFI002981).
25 January 2021	The University acknowledges Mr Singh's FOI request (UHRFI002981).
18 February 2021	The University responds to Mr Singh's FOI request (UHRFI002981).
23 August 2021	Mr Singh's solicitors, Thamina Solicitors, send a letter before action on Mr Singh's behalf, threatening legal proceedings.
16 December 2021	The University's solicitors, Shakespeare Martineau LLP, robustly reject Mr Singh's letter before action.
<b>26 December 2021</b>	<b>FOI request (UHRF1003183)</b>
<b>27 January 2022</b>	<b>Response to FOI request (UHRF1003183)</b>
<b>4 February 2022</b>	<b>Request for clarification of response (UHRF1003183)</b>
<b>23 February 2022</b>	<b>Clarification of response by University (UHRF1003183)</b>
25 May 2022	Mr Singh writes to confirm that he will represent himself in this matter.
15 June 2022	Mr Singh raises a complaint about the University's solicitors, Shakespeare Martineau LLP.
15 June 2022	Mr Singh writes to the Vice-Chancellor requesting that his original complaint be reopened. He encloses a letter from the Home Office (dated 4 May 2020) responding to a Freedom of Information request about visa procedure.
23 June 2022	Mr Singh threatens to write to the SRA regarding the conduct of the University's solicitors.
27 June 2022	The University confirms that it will not be re-opening consideration of Mr Singh's original complaint.
1 July 2022	Mr Singh writes to the Vice-Chancellor (a 216-page document) setting out his reasons for disagreeing with the University's response to his letter before action, and seeking £2 million in compensation.

7 July 2022	Mr Singh writes to the Vice-Chancellor and Secretary & Registrar with alleged ‘whistleblower disclosures’ about the University’s student visa processes.
<b>8 July 2022</b>	<b>Mr. Singh asks the University to ‘correct’ its previous response (UHRF1003183)</b>
8 July 2022	Shakespeare Martineau requests that Mr Singh sends all future correspondence to them and not the University. They urge Mr Singh to seek independent legal advice.
8 July 2022	Mr Singh refuses to stop sending correspondence to the University.
<b>14 July 2022</b>	<b>Mr. Singh asserts that correcting previous responses is a University responsibility even if the matter is being considered by another department (UHRF1003183)</b>
21 July 2022	Mr Singh sends a complaint about the University’s solicitors to the SRA.
<b>29 July 2022</b>	<b>Request refused as vexatious under section 14 ((UHRF1003183)</b>
1 August 2022	Shakespeare Martineau responds on the University’s behalf to Mr Singh’s letter of 1 July.
12 August 2022	Mr Singh confirms he is seeking legal advice.
16 August 2022	Mr Singh sends a further long letter setting out his allegations.
1 September 2022	Mr Singh sends his ‘whistleblower disclosures’ to the ICO.
September 2022	University Internal Audit Service considers and investigates Mr Singh’s ‘whistleblower disclosures’.
8 September 2022	The ICO responds to Mr Singh’s letter.
8 September 2022	Mr Singh threatens to report various members of the University’s staff to the police via Action Fraud.
16 September 2022	Shakespeare Martineau responds on the University’s behalf to Mr Singh’s letter of 16 August.
16 September 2022	Mr Singh responds, again threatening legal proceedings.
20 September 2022	Mr Singh writes to the Indian Ministry of Education and Home Affairs about his case. He notes that he is also considering taking his case to the United Nations.
21 September 2022	Mr Singh writes that he will be sending a claim form and particulars of claim.
<b>30 September</b>	<b>Internal review (UHRF1003183)</b>

## 2022

4 October 2022	Vice-Chancellor responds formally to Mr Singh's 'whistleblower disclosures' stating that they are unsubstantiated.
5 October 2022	Mr Singh responds to the Vice-Chancellor requesting the name of the Head of Internal Audit and threatening referrals to the Home Office and Action Fraud.
28 November 2022	Shakespeare Martineau asks for details of Mr Singh's proceedings and notes that it is instructed to receive service of the relevant court papers.
29 November 2022	Mr Singh forwards ICO correspondence to the University.
2 December 2022	Mr Singh writes to the University requesting that his 'whistleblower disclosures' be considered by the Chair of the Board of Governors.

## Discussion and conclusions

### *Section 14*

34. Although the four broad issues or themes identified by the Upper Tribunal in **Dransfield** are not exhaustive and are not intended to create a formulaic check-list, they are a helpful tool to structure our discussion. In doing so, we have taken a holistic approach and we bear in mind that we are considering whether or not the request was vexatious in the sense of being a manifestly unjustified, inappropriate or improper use of FOIA.

### *Motive*

35. The dispute between Mr. Singh and the University that began in 2016 was live and ongoing at the date of the request. It continued to be ongoing thereafter. We have taken account of the context and the timing of the current request, and we note the multiple other FOIA requests, complaints to the University and to the OIA. In the absence of any other explanation for why the original request was made in December 2021, we find that the likely motive for making the request was not a genuine interest in receiving the requested information, but to annoy, irritate or attempt to damage the reputation of the University. We find that the reason why Mr. Singh wanted to do this was because of his ongoing dispute with the University. This is a case in which Mr. Singh's actions were improperly motivated. We conclude that Mr. Singh is a requester, adopting the wording from **Dransfield**, who has "pursue[d] his rights against an authority out of vengeance for some other decision of its".
36. The tribunal does not know when or how the appellant obtained the CAS/tier 4 letter. It is likely that the appellant had the letter when he made the request in December 2021 and we find that he did on the balance of probabilities. He certainly had the letter when he asked the University to 'correct its response' in July 2022. Given that the appellant already had a copy of that letter, it is difficult to see what genuine motive there can have been for the request other than a fishing expedition to attempt to identify any other similar incidents.

37. This position about the appellant's motive is supported, in our view, by the fact that Mr. Singh has subsequently pursued these allegations via a whistleblowing complaint. He has continued to pursue these allegations despite the fact that the Vice-Chancellor has responded formally to his 'whistleblower disclosures' stating that they are unsubstantiated. We draw two inferences from that. First, that Mr. Singh did not need a response to his current request in order to pursue a complaint about this issue. Second, that Mr. Singh's motive is not to cast a light on suspected wrongdoing. He has raised the matter and had it dealt with through the appropriate channels, but continues to pursue the issue.
38. We find that Mr. Singh's actions were improperly motivated. We conclude that Mr. Singh is a requester pursuing his rights against an authority in retaliation for some other decision – namely its decision in 2016 taken as a result of the late payment of fees.

### *Burden*

39. Although the appeal relates only to this request, when assessing the burden on the ICO we must consider the context and history of the particular request, in terms of the previous course of dealings between the individual requester and the ICO in assessing whether the request is properly to be described as vexatious. Although this does take account of the previous actions of the individual requestor, this is in accordance with the approach of higher authorities, and therefore the approach that this tribunal should take.
40. Mr. Singh argues that it is not appropriate to take account of the course of dealings arising out of his 2016 dispute with the University, because it relates to a different matter than the current request.
41. We accept that the subject matter of this request does not relate directly to the dispute in 2016 relating to the actions taken by the University in response to the late payment of fees by Mr. Singh.
42. Given our conclusions above that the request was motivated by the 2016 dispute, we find that it is appropriate to view the burden of this request not in isolation but in the context of the entire course of dealings with the appellant.
43. Looking at the position up to the date of the request, it is clear that the course of dealings was placing an extremely significant burden on the University. At that point, in the light of the frequency and nature of the interactions with the appellant, it would have been reasonable for the university to anticipate a significant future burden in the light of the letter before action and the appellant's past tendency to challenge decisions that went against him.
44. Further, even viewed in isolation, this request would place a significant burden on the University. We accept that the request in essence asks the University to identify whether there were any anomalies between 1 September 2013 and 16 December 2018 in the way the University followed the relevant process. Given the number of CAS letters issued per year, we accept that this exercise would impose a significant burden on the University as the University would be required to sift through a substantial volume of information to determine, firstly, whether any such anomalies exist and secondly, to isolate and extract the relevant details.

45. The appellant submits that the burden of complying is small, because he has simply asked the University ‘(with evidence) to change their records and response for the Public especially students’. The tribunal takes this to be a reference to the email of 8 July 2022 which states as follows:

“In relation to point (f), university is whether wrong or purposely made an attempt to mislead me and Public. Could you please correct it to avoid me to taking further actions against you as per the FOIA rules (here). I have found that university could write the different amount on international students CAS- contrary to the students actual fee invoice. Please inform me if you need an evidence to verify my statement.”

46. The email of 8 July 2022 is not a FOIA request and is not the FOIA request under consideration in this appeal. The burden we are considering is not the burden of the University correcting its previous response by acknowledging the CAS/tier 4 letter. We are considering the burden of complying with the request of 26 December 2021 which asked:

“(f) Did university was allowed to write the different amount on the continuing international student/s CAS (which is different from the university invoice; real owing money towards the student) in order to approve the visa. Please provide the details from 01 September 2013- 16 December 2018. If yes- How many times university did the same as mentioned above.”

47. As set out above, we accept that complying with this request would involve the University sifting through a substantial volume of information to determine, firstly, whether any such anomalies exist and secondly, to isolate and extract the relevant details.

#### *Harassment and distress*

48. There is no evidence of harassment or distress in this case.

#### *Purpose or value*

49. We find that there was a more appropriate process for dealing with any concerns that Mr. Singh had arising out of the CAS/tier 4 letter that had come into his possession. The whistleblowing process was followed by Mr. Singh following his request. He was able to make use of this process without having received a response to his FOIA request.

50. We accept that there is value in transparency, particularly of situations where a public body appears not to have followed the normal processes. However, given that Mr. Singh already had the CAS/tier 4 letter, and there is no evidence of any other incidents, we find that the FOIA request does not serve a useful purpose, other than as a general fishing expedition.

51. Overall, we conclude that there 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.

#### *Conclusions on whether the request is vexatious*

52. The tribunal takes a holistic approach and the request must reach the high hurdle of vexatiousness. One of the main purposes of FOIA is to provide citizens with a qualified right of access to official documentation and thereby a means of holding public authorities to account.
53. We have taken a holistic and broad approach and have decided that it is appropriate to look at the request in the light of the past course of dealings between the appellant and the University. We have considered the burden on the University of the request in isolation and in the light of the course of dealings. We have considered the value and purpose of this request. We have looked at the appellant's motive. Looked at as a whole, our conclusion is that the burden on the University was disproportionate to the purpose or value of the request. We find that the request was vexatious in the sense of being a manifestly unjustified, inappropriate, or improper use of FOIA.
54. We conclude accordingly that the exemption in section 14 does apply and the appeal is dismissed.

Signed Sophie Buckley

Date: 23 November 2023

Judge of the First-tier Tribunal