

## Freedom of Information Act 2000 (FOIA)

### Decision Notice

**Date:** 16 May 2013

**Public Authority:** Department of Justice for Northern Ireland

**Address:** Annex A  
Dundonald House  
Stormont  
Belfast  
BT4 3SU

#### Decision (including any steps ordered)

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1. The complainant requested information from the Department of Justice for Northern Ireland. The Department claimed that the request was vexatious under section 14(1) of the FOIA. The Commissioner's decision is that the Department was entitled to rely on section 14(1). The Commissioner does not require any steps to be taken.

#### Request and response

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2. On 22 June 2012, the complainant made the following request to the Department:

*"Mr Ford has failed to substantiate his claims, answer legitimate questions including about wrongdoing including perjured evidence and also about compliance with particular reference to the Principles for Public Office Holders published by the Organisation for Economic Co-operation and Development (OECD), it will be necessary in order to conduct a full comprehensive and detailed audit.*

*Copies of all correspondence pertaining to this matter are therefore needed to identify where and how Mr Ford draws his information. This will include but is not limited to; letters, faxes, emails, reports, memorandums and telephone transcripts. As Mr Ford will know from my previous communications, secret trials are outlawed by the Justice Ministry and there must be compliance."*

3. The Department responded on 10 July 2012, stating that it was refusing the request under section 14(1) of the FOIA. Section 14(1) states that a public authority is not obliged to comply with vexatious requests.
4. The complainant requested an internal review on 19 July 2012. The Department wrote to the complainant on 7 August 2012 to advise that the internal review was now completed. The outcome of the internal review was that the Department maintained its reliance on section 14(1) to refuse the request.

### **Scope of the case**

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5. On 10 August 2012 the complainant contacted the Commissioner to complain about the Department's application of section 14(1). The complainant claimed that the Department had failed to provide information to him, and had failed to provide evidence that it had answered questions he had asked.
6. The Commissioner wrote to the complainant on 4 October 2012 to request copies of the relevant correspondence. The complainant provided some correspondence to the Commissioner on 15 October 2012 but advised that he had submitted his requests online and was therefore unable to obtain copies.
7. The Commissioner wrote to the complainant on 25 March 2013 to clarify the scope of the complaint. The Commissioner stressed to the complainant that he could not comment on the complainant's wider dispute. The Commissioner emphasised that his role was to decide whether a particular request had been handled in accordance with the FOIA, and in this case the Commissioner considered that to be the complainant's request of 22 June 2012, as set out at paragraph 2 above.
8. The complainant responded to the Commissioner on 3 April 2013. In this letter the complainant expressed dissatisfaction with what he considered to be the Commissioner's narrow approach to the issues he had raised. The complainant argued that the Commissioner's role included "responsibilities as defined under the Organisation for Economic Co-operation and Development (OECD) Principles for Public Office Holders", and human rights legislation. The complainant also made a number of comments questioning the Commissioner's independence.
9. The Commissioner has considered the complainant's representations, and remains of the view that it is appropriate for him to make a decision under section 50 of the FOIA. The Commissioner's complaint handling responsibilities are clearly set out in this section of the FOIA, and the

complaint as submitted appears to focus on the Department's refusal of the complainant's request.

## Reasons for decision

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### Section 14(1): vexatious requests

10. Section 14(1) of the FOIA states that a public authority is not obliged to comply with a request if the request is vexatious. The term vexatious is not defined in the FOIA, but the Commissioner's published guidance<sup>1</sup> explains that the term is intended to have its ordinary meaning and there is no link with legal definitions from other contexts (e.g. vexatious litigants). The Upper Tribunal considered the issue of vexatious requests in the case of *Information Commissioner v Devon CC & Dransfield*<sup>2</sup>. The Tribunal commented that the Commissioner's guidance that consideration of whether the request is likely to cause distress, disruption or irritation, "*without any proper or justified cause*",

*"...provides a useful starting point, so long as the emphasis is on the issue of justification (or not)".*

11. By way of background the complainant advised the Commissioner that he had been involved in a court case in Northern Ireland. The complainant had provided written evidence as opposed to attending in person, but according to the complainant the case was "dismissed without any reasons being provided". The complainant advised the Commissioner that he had been denied access to court records, and had sought

*"...advice of the mechanism to address perjured evidence when only the Defendant is present in Court as well as the Court hearing records".*

12. The complainant argued that the Minister for Justice sought

*"...to frustrate and/or curtail, my efforts to enjoy compliance and a Pathway to Justice, through lawful access to these documents".*

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<sup>1</sup>

[http://www.ico.gov.uk/for\\_organisations/guidance\\_index/~media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/VEXATIOUS\\_AND\\_REPEATED\\_REQUESTS.ashx](http://www.ico.gov.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/VEXATIOUS_AND_REPEATED_REQUESTS.ashx)

<sup>2</sup> GIA/3037/2011

13. In its letter to the complainant of 10 July 2012 the Department referred to:

*"...a pattern of successive requests for information regarding your complaint in relation to the use of "kangaroo courts" in Northern Ireland."*

14. The Department advised the Commissioner that the complainant had prolonged correspondence with a number of public authorities in relation to his dispute. In particular, the Department noted that the complainant had been in correspondence with the Office of the Lord Chief Justice (the LCJ), and the Northern Ireland Courts and Tribunals Service (the NICTS), since 2004.
15. The Department provided the Commissioner with copies of its correspondence with the complainant. This began in 2010, when the complainant wrote to the Minister for Justice in Northern Ireland about his dissatisfaction with the way his court case had been handled. Following exchanges of correspondence the Department responded to the complainant on 12 January 2011, advising that it was treating the matter as closed, at which point the complainant approached a member of the Northern Ireland Assembly (an MLA) to assist him. The Department corresponded with the MLA but ultimately confirmed on 24 July 2012 that it did not intend to take any further action in relation to the matters raised by the complainant.
16. The Commissioner considers that parallels can be drawn between this case and the case of *Betts v Information Commissioner Information Tribunal*<sup>3</sup>. In *Betts*, the complainant made a series of requests for information tenuously connected with his ongoing dispute with the public authority. The majority Tribunal found section 14(1) was engaged and commented:

*"...the Appellant's refusal to let the matter drop and the dogged persistence with which he pursued his requests, despite disclosure by the Council and explanations as to its practices, indicated that the latter part of the request was part of an obsession. The Tribunal accepted that in early 2005 the Appellant could not be criticised for seeking the information that he did. Two years on however and the public interest in openness had been outweighed by the drain on resources and diversion*

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<sup>3</sup> Appeal no EA/2007/1009

*from necessary public functions that were a result of his repeated requests..." (para 38).*

17. In this case the complainant has been unable to obtain the outcome he sought from the courts, and has failed to persuade other bodies to intervene. The LCJ is not a public authority under the FOIA, but the NICTS is an executive agency of the Department. The Commissioner understands that the complainant believes he has valid grounds for complaint about the way his court case was handled. Having exhausted the internal complaints procedures of the LCJ and the NICTS, the complainant has turned his attention to the Department.

18. The Commissioner concludes that the complainant's correspondence with the Department demonstrates a shift in focus from the particulars of his court case to a wider dissatisfaction with the justice system in Northern Ireland. The Commissioner is of the view that this could be interpreted as indicating obsessive behaviour on the part of the complainant.

19. The Commissioner is also mindful of the Upper Tribunal's comments in *Dransfield*, where the Tribunal commented on the importance of considering a request in the context of previous correspondence:

*"The present or future burden on the public authority may be inextricably linked with the previous course of dealings. Thus 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 it is properly to be characterised as vexatious.*

20. As set out above the Commissioner is of the view that the nature of the correspondence between the complainant and the Department indicates a pattern of obsession. The Department has argued that each response to the complainant has resulted in further correspondence, but that this correspondence has not assisted in resolving the complainant's issues. The Commissioner agrees that it is likely that compliance with the complainant's request would result in further correspondence, and he has seen no evidence to suggest that compliance with the request of 22 June 2012 would satisfy the complainant or bring an end to the correspondence.

21. The Commissioner has been assisted in his considerations by the Upper Tribunal's comments in the case of *Wise v Information Commissioner*<sup>4</sup>:

*"Inherent in the policy behind section 14(1) is the idea of proportionality. There must be an appropriate relationship between such matters as the information sought, the purpose of the request and the time and other resources that would be needed to provide it."*

22. The FOIA provides for access to recorded information, and requires that the applicant describe the information sought. However, in this case the Commissioner has had some difficulty identifying the requested information. The Commissioner notes that section 16 of the FOIA requires a public authority to provide advice and assistance to applicants, for example where a request is unclear. As noted above, the Department corresponded with an MLA in relation to the complainant's dispute. On 5 April 2012 the Department suggested to the MLA that the complainant resubmit his request and

*"... state clearly what his precise requirements are in terms of the information he is seeking."*

23. The Commissioner considers this an attempt by the Department to encourage the complainant to clarify his request. However, rather than submit a clear request for recorded information, or at least indicate what type of information he expected to receive, the complainant continued to make general statements and criticisms as to the administration of justice in Northern Ireland, which culminated in the Department's decision to apply section 14(1). The complainant has continued to make these general comments in his correspondence with the Commissioner, which unfortunately makes it more difficult to separate out the issues relating to the actual information request, and the complainant's more general dissatisfaction.
24. The Commissioner accepts that the complainant's correspondence constitutes a burden on the Department in terms of staffing resources, as well as diverting staff away from their core duties. The Commissioner is unable to identify a strong public interest in the issues raised by the complainant, which appear to stem purely from his personal circumstances. Therefore the Commissioner is not persuaded that there is an overriding public interest which means that the Department should

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<sup>4</sup> GIA/1871/2011

be required to expend further resources responding to continuing correspondence and requests which are not clear.

25. For the reasons set out above the Commissioner concludes that the complainant's request of 22 June 2012 was vexatious. The Commissioner is satisfied that the request reflected the complainant's desire to keep his dispute alive, rather than to access recorded information. The Commissioner finds no substantive justification for the request, and is satisfied that compliance would prolong correspondence and constitute an unfair burden on the Department. Accordingly the Commissioner finds that section 14(1) is engaged, and the Department was not obliged to comply with the complainant's request.

## Right of appeal

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26. 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: 0116 249 4253  
Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

27. 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.
28. 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** .....

**Alexander Ganotis**  
**Group Manager – Complaints Resolution**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**