

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 1 September 2014

**Public Authority:** The Wey Valley School  
**Address:** The Wey Valley Campus  
Dorchester Road  
Weymouth  
Dorset  
DT3 5AN

#### Decision (including any steps ordered)

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1. The complainant has requested information broadly concerning maintenance work carried out at Wey Valley School ("the School").
2. The Commissioner's decision is that the School has correctly applied the exemption set out at section 14 of FOIA.
3. The Commissioner requires the public authority to take no steps.

#### Request and response

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4. On 14 January 2014, the complainant wrote to the School and requested information in the following terms:  
  
*"(1) The dates of your office having the new carpets put down (1A) The dates the furniture was removed from yours and [name] office the dates the furniture was put back.*  
  
*(2) The dates [name] office move from down stairs to upstairs.*  
  
*(3) The dates the new light fittings were installed on the main hall stage ceiling*  
  
*(3A) The contractor who installed the work.*

*(3B) The scaffolders who erected the scaffolding and dismantled the scaffolding after every light fitting was replaced, I think there were sixteen to twenty light fitting exchanged. This would be on the invoice from the contractors.*

*And finally [name] could you confirm if I had ever asked to go on a scaffolding training course while I was employed at Wey Valley Sports College Dorchester Road Weymouth Dorset.*

*And if I had gone on a scaffolding training course and was competent and qualified enough to erect scaffolding to be used by electricians and to dismantle scaffolding”.*

5. The School responded on 4 February 2014. It explained that it did not intend to respond to the requests.
6. The complainant subsequently complained to the Commissioner who contacted the School and advised it that it needed to issue a refusal notice in accordance with section 17 of FOIA.
7. The School sent its refusal notice on 4 April 2014. In its response it explained that it was seeking to rely upon section 14(2) of FOIA. It explained the information requested had been provided to the complainant in a hearing in September 2013 and that:

*“Due to the vexatious nature of your request and your unreasonable persistence for this information where issues were resolved in school (in particular office moves) the school refuses your request”.*

8. It further explained:

*“You clearly have a personal grudge against employees at the school, with deliberate intention to cause annoyance and a continued ‘scattergun approach’ to seek information from the school”.*

## **Scope of the case**

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9. The complainant contacted the Commissioner on 10 April 2014 to complain about the way his request for information had been handled.
10. The Commissioner has had to consider whether the School was correct to apply section 14 to the request.

## Reasons for decision

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11. Section 14(2) of FOIA states that

*"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"*.

12. Upon reflection the School considered that the exemption set out under section 14(1) would be more applicable.

13. Section 14(1) of FOIA provides that a public authority is not obliged to comply with an information request that is vexatious.

14. Guidance on vexatious requests provided by the Upper Tribunal in *Information Commissioner and Devon County Council vs Mr Alan Dransfield* (GIA/3037/2011)<sup>1</sup> places emphasis on the importance of adopting a holistic approach to the determination of whether or not a request is vexatious.

15. The Upper Tribunal's judgment proposed four broad issues that public authorities should bear in mind when considering whether FOI requests are vexatious: (i) the burden of meeting the request; (ii) the motive of the requester; (iii) the value or serious purpose of requests; and (iv) any harassment or distress caused. The judgment concurred with an earlier First-tier Tribunal decision in *Lee vs Information Commissioner and King's College Cambridge* (EA/2012/0015, 0049 and 0085) that vexation implies an unjustified, inappropriate or improper use of a formal procedure.

16. The judgment noted that the four broad issues are *"not intended to be exhaustive, nor are they meant to create an alternative formulaic checklist"*. It stated the importance of remembering that Parliament has expressly declined to define the term 'vexatious'. Consequently, the four broad issues, *"should not be taken as imposing any prescriptive and all-encompassing definition upon an inherently flexible concept which can take many different forms."*

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<sup>1</sup> <http://www.osscc.gov.uk/Aspx/view.aspx?id=3680>

17. The Commissioner's guidance<sup>2</sup> on the application of section 14(1) indicates that the key question for a public authority is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. The public authority should take into account the background and history of the request where this is relevant.

### **Burden of requests and level of disruption, irritation or distress**

18. The Commissioner is aware that the request was submitted by an ex-employee of the School. The Commissioner understands that there has been a dispute between the complainant and the School for a long period of time. The School has explained that it cannot resolve the issue with the complainant in a conciliatory manner as previous attempts have failed.
19. The School provided the Commissioner with evidence of the complainant's behaviour which supports its application of section 14. The School argued that the complainant's continual behaviour and conduct during his absence and post dismissal has been *"persistently vexatious with a campaign to pressure and hinder the School"*.
20. The Commissioner understands that the complainant has raised concerns with regards to Health & Safety practices within the School with the Department for Work and Pensions (DWP) and Dorset County Council (DCC). The School has confirmed that these concerns have been resolved.
21. The Commissioner also understands that the complainant has raised further concerns regarding the School with the Health & Safety Executive (HSE). The School confirmed that it has responded to the HSE's enquiries and this matter has also been resolved.
22. The School concluded that the complainant *"has been a grossly oppressive burden on the school in dealing with issues during the last few years and this continues after his dismissal at the expense of the teaching and learning in school for our students"*.
23. The School subsequently invited the Commissioner to uphold its position that section 14(1) applied to the request.

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<sup>2</sup>[http://ico.org.uk/for\\_organisations/guidance\\_index/~/media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/dealing-with-vexatious-requests.ashx](http://ico.org.uk/for_organisations/guidance_index/~/media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx)

### **The complainant's arguments**

24. The complainant argued that his request was not vexatious as it was "*seeking truth and justice*". The complainant also disputed the fact that he already had access to the requested information. He explained that if he had access to the information he requires, he would not have brought a complaint to the Commissioner.

### **The Commissioner's conclusion**

25. It is evident from the evidence seen by the Commissioner from both the School and the complainant that there is a long standing dispute. In his view, the Commissioner considers that even if the School complied with the information request, it would not resolve the issues between the two parties.
26. He further considers that if the School were to response to the request, it may not satisfy the complainant and there is potential for it to lead to further problems between the complainant and the School and subsequent follow up requests for information.
27. The Commissioner finds that any problems that occurred during the course of the complainant's employment have been investigated. It would therefore appear that the request under consideration opens up matters that have already been considered and closed.
28. The Commissioner does acknowledge that the complainant has an interest in the requested information. However, he has also acknowledged the burden placed on the School and would consider that the exemption set out at section 14 prevents an individual from placing a drain on public authority's resources.
29. He has therefore determined that the School was correct to rely upon section 14 of FOIA.

## Right of appeal

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30. 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@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

31. 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.
32. 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 .....**

**Rachael Cragg**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**