

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 11 March 2015

**Public Authority:** Ofsted  
**Address:** Freshford House  
Redcliffe Way  
Bristol  
BS1 6NL

#### **Decision (including any steps ordered)**

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1. The complainant has requested from Ofsted information in response to a statement by a named Ofsted officer, for details of how and when the complainant's correspondence was given consideration.
2. Ofsted refused to comply with the request for information on the basis that the request is vexatious in accordance with section 14(1) of the FOIA.
3. The Commissioner's decision is that the request is vexatious and that Ofsted has correctly applied section 14(1) of the FOIA to refuse the request. The Commissioner does not require Ofsted to take any steps.

#### **Background**

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4. The complainant made a complaint against a named school to Ofsted which was first assessed by its Complaints about Schools team in September 2013. Ofsted received extensive background correspondence about the complainant's dispute with the school and the local authority. Ofsted stated that the complainant proceeded to correspond with its members of staff about her concerns. In January 2014, it informed the complainant in an outcome letter that her complaint against the school qualified for investigation by Ofsted.

5. Following a review of the complainant's concerns, it was decided that information would be retained by Ofsted for consideration at the next inspection. However, the complainant expressed her dissatisfaction with Ofsted's outcome letter and she continued to make complaints about the school and the local authority.
6. As a result of the complainant's correspondence, the full complaints file was reviewed again by Ofsted's Principal Officer for Complaints about Schools. Ofsted found that the complainant's concerns had been correctly investigated and that all appropriate action, within Ofsted's control to consider complaints about schools, had been taken.
7. The complainant made a formal complaint in May 2014 against Ofsted. This related to her dissatisfaction on how her concerns against the school had been dealt with. The complaint was reviewed by one of Ofsted's Inspectors and Ofsted explained to the complainant in June 2014 how the first investigation had been conducted and that none of her complaints were upheld.

## **Request and response**

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8. On 20 October 2014 the complainant wrote to Ofsted and requested information in the following terms:

*"You have said:*

***"I can confirm that we have given your correspondence appropriate consideration at all times."***

*Would you please demonstrate the veracity of your statement by providing the details of exactly, who, how, when, etc. my correspondence was given 'appropriate consideration'.*

*This information, in effect the metadata for the processing of this ongoing case, would include but not necessarily be limited to:*

- internal meetings, memos, and details of distribution*
- any documents generated, and details of distribution*
- details of any sharing of any of the material I have sent*
- advice received from any third parties*
- etc.*

*Given that this material is already held, and that you have made your statement, then the above required information should be readily available, accessible, and capable of being sent by return."*

9. On 15 December 2014 Ofsted acknowledged the request. Ofsted refused to respond as it deemed the request to be vexatious under section 14(1) of the FOIA.
10. On the same day the complainant requested an internal review.
11. On 6 January 2015 the complainant wrote to Ofsted to give her "*full reasons for the review*".
12. Following an internal review Ofsted wrote to the complainant on 5 February 2015. Ofsted maintained its position and it considered the request to be vexatious under section 14(1) of the FOIA.

### **Scope of the case**

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13. The complainant contacted the Commissioner on 6 January 2015 to complain about the way her request for information had been handled.
14. The scope of this case has been to consider whether the request is vexatious and if Ofsted is correct to rely on section 14(1) of the FOIA to refuse to comply with the request.

### **Reasons for decision**

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#### **Section 14 – vexatious request**

15. Section 14(1) of the FOIA states that a public authority may refuse a request if it is vexatious. The FOIA does not define the term, but it was discussed before the Upper Tribunal in the case of Information Commissioner vs Devon County Council & Dransfield [2012] UKUT 440 (AAC), (28 January 2013).
16. In this case the Upper Tribunal defined a vexatious request as one that is "*manifestly unjustified, inappropriate or improper use of a formal procedure.*" The Tribunal made it clear that the decision of whether a request is vexatious must be based on the circumstances surrounding the request.

17. In making his decision the Commissioner has obtained submissions from the complainant and he has also taken into account the detailed arguments provided by Ofsted in the internal review. This is to understand the circumstances surrounding the request in order for the Commissioner to reach a decision on whether the request is vexatious. The Commissioner will consider their arguments where appropriate.

### **Burden on the authority**

18. Ofsted has explained that this matter began in September 2013 and still continues. It stated that Ofsted has received over 100 items of correspondence from the complainant and in return Ofsted has sent 26 items of correspondence. It added that this included responses to FOIA and Data protection subject access requests.
19. Ofsted interpreted the request of 20 October 2014 to be the complainant asking Ofsted to review, collate and to provide additional information concerning all correspondence from the complainant. Ofsted said that this amounted to approximately 130 items.
20. For Ofsted to re-exam all of the relating correspondence, it stated that this would cause great disruption considering the number of internal staff that the complainant had tried to contact over an extended period of time.

### **Unreasonable persistence**

21. Ofsted are of the view that the complainant had approached it in order for her daughter's former school and its local authority to be held responsible for an alleged treatment of her in the past.
22. Ofsted stated that it had attempted to explain to the complainant the limits of its role in dealing with parent's complaints made about schools and local authorities. Ofsted argued that it had repeatedly explained to the complainant that it is unable to take individual complaints forward in the way that she had asked, as Ofsted does not have control to do this.
23. Ofsted said that following these repeated explanations to the complainant, it informed her that it was unable to assist any further with her complaint. Ofsted stated that the complainant then objected to how it had handled her concerns. However, its review found that Ofsted had acted appropriately in these areas and that the issue was exhausted.
24. Ofsted argued that in the complainant's correspondence she had made nine references to her local authority. Ofsted believed that its explanations to the complainant had been ignored and that she had not accepted the fact that Ofsted cannot progress complaints about local authorities in the way that she had asked.

25. Ofsted stated that it received numerous emails from the complainant which resulted from Ofsted's attempts to conclude these matters. This included the complainant requesting immediate responses or acknowledgements to unsolicited emails/letters, asking further questions and making new grievances when Ofsted had not responded to her within her requested time frame.
26. Ofsted argued that there is evidence of unreasonable persistence over a long period of time and unwillingness from the complainant to let matters go once a conclusion had been reached.

### **Intransigence**

27. Ofsted maintained that the complainant refused to accept its advice and she would not accept that it is unable to take matters forward regarding her grievances against the local authority. Ofsted argued that for over 12 months, the complainant's correspondence was in its view seeking to challenge and undermine Ofsted's position. It further argued that the complainant had escalated the case within Ofsted and she had included claims of a "*civil conspiracy*" and that certain Ofsted staff - are in her view "*contaminated*".
28. Ofsted said that for over 12 months it had repeatedly stated to the complainant the limits of its jurisdiction, but that these communications had been ignored. Ofsted reported that it had attempted to organise a face-to-face discussion with the complainant in an attempt to understand her outstanding issues and to provide her with its explanations. Ofsted argued that the complainant was not prepared to engage or to attend discussions which would have provided her with Ofsted's position relating to the raised concerns.

### **Futile requests**

29. Ofsted explained that the request is a matter that affects the complainant and her daughter. It asks Ofsted to review the handling of her correspondence with Ofsted but not for any communications with third parties. Ofsted argued that there is no public interest in the request and that the complainant considers her correspondence to be relating to serious previous matters.

30. Ofsted clarified the facts of the matter are that the complainant's daughter had not attended the school for a period of time nor had she been attending maintained education under the local authority. Ofsted explained that if the daughter had been, Ofsted does not have a remit to intervene in the complainant's case. It added that an internal investigation had supported this position. It said that the complainant's purpose of continued correspondence with this matter is unclear to Ofsted.

### **No obvious intent to obtain information**

31. Ofsted explained that when it had confirmed to the complainant that it had dealt with previous correspondence appropriately, she had stated: "*the natural sequitur of 'show me' was engaged*". Ofsted is of the view that the complainant's request was "*emotionally-driven*" and that the complainant refused to accept Ofsted's statement and its decision that it was going to close down the correspondence.
32. Ofsted argued that in this context the request appears motivated by a desire to provoke and annoy Ofsted staff and to keep the correspondence alive. It also argued that a request made in this way represents inappropriate use of the FOIA in order to make her point of "*show me*" in the complainant's correspondence.
33. Ofsted reiterated the fact that the complainant had sent over 100 items of correspondence and that Ofsted had sent 26 responses. Therefore, Ofsted argued that the complainant already possesses the requested information.

### **Frequent or overlapping requests**

34. Ofsted argued that further correspondence from the complainant was frequently sent before Ofsted had the opportunity to respond to earlier communication. Ofsted stated that when she complained about her school and the local authority, the complainant had submitted a further seventy items of communications for Ofsted to consider whilst it was formulating its response. Ofsted added that this FOI request was sent three days following a letter of complaint to Ofsted's Chief Inspector, with a further complaint that was then sent to Ofsted three days after that.

35. Ofsted reported that all these matters were overlapping, this made it impossible to identify the questions and which items required responses. Ofsted stated that correspondence was sent referring to the complainant's information request during the related internal review process. It argued that these were further overlapping requests which caused confusion and prevented any attempt to resolve the information request.

### **Unfounded accusations**

36. Ofsted expressed its concerns on the obsessive conduct of the complainant's communications and of the allegations about Ofsted and its staff. It stated that this was a common feature in the communications and that they also included claims of a civil conspiracy. Ofsted said that the complainant had stated that other information *"proves that Ofsted are colluding in a cover up of child abuse...the police should consider prosecution too"*.
37. Ofsted argued that the complainant had targeted a number of Ofsted staff, asking for details of their line managers and making disparaging comments about their competency.

### **The complainant's position**

38. The complainant stated that Ofsted had made repeated references to the Dransfield case and argued that this was inappropriate. She refuted this assertion and Ofsted's refusal to provide her with the information which in the complainant's view they are *"unlawfully"* withholding.
39. The complainant said that this case refers to one aspect of a wider issue, which in her view is the *"abuse of a minor"* and all associated circumstances. She argued that there had been irreconcilable inconsistencies in the statements from the local authority, upon which Ofsted, via the named officer, stated that *"I can confirm that we have given your correspondence appropriate consideration at all times"*. The complainant added that in her natural response, both in terms of history and context, is *'show me'*. Therefore, the information request was made accordingly and she argued that in context, the request is appropriate and is not *"manifestly unjustified!"*
40. Referring to the items of correspondence, the complainant argued that a number of documents were sent because Ofsted had required them and asked for all documentary evidence to accompany each communication. The complainant also argued Ofsted's reference to the length of her letters and said that this was irrelevant as they were required by Ofsted.

41. The complainant disputed Ofsted's claim that her request is disproportionate and would cause disruption. She stated that the information is held electronically and that it could be collated within a few minutes. Ofsted's reference to the number of internal staff that the complainant had contacted was also disputed and the complainant argued that Ofsted had suggested that she "*write to other people.*"
42. Ofsted's referral to unreasonable persistence was argued. The complainant is of the view that "*there is nothing unreasonable in persisting with a case that involves abuse of a child, cover ups by the local school and local authority, with Ofsted acting as gatekeeper.*" The complainant added a reference to the Fair Access Policy of the local authority and added that Ofsted's further arguments could therefore in her view, be dismissed.
43. The complainant disagreed with Ofsted's claim that it had attempted to "*conclude these matters*". She is of the view that this is inaccurate and that Ofsted was avoiding the core issue. She argued that if Ofsted had correctly dealt with her case from the beginning, there would have been no issue of persistence.
44. The complainant accepted that an offer of a meeting was made. However, she argued that Ofsted had attempted to restrict the agenda to an extent that a meeting would be "*meaningless.*" The complainant believed that Ofsted had failed to produce the outstanding information and disagreed with its claim that she had refused to engage with Ofsted on the focused terms of the suggested agenda.
45. The complainant argued Ofsted's remark that the request was "*emotionally driven*". She said that she had not allowed personal considerations to interfere with her reasonable approach to obtaining information to which she considers she is entitled to.
46. Ofsted's referral to the frequent or overlapping requests was argued. The complainant reported that Ofsted was kept informed of what she considered to be the ongoing failures of the local authority in dealing with issues relating to her daughter and that were within the remit of Ofsted.
47. The complainant disputed Ofsted's view that these matters were overlapping and made it nearly impossible to track. She considered this to be another example of the failure of Ofsted and also considered that if she as an individual can keep track, so should a government department whose remit includes child safe guarding.



48. Ofsted's reference to unfounded accusations was argued by the complainant. She disputed Ofsted's claims on her obsessive conduct and considered that Ofsted had been attempting to justify withholding information by making inappropriate slurs upon her character.

## **Conclusion**

49. The Commissioner is satisfied that the wider context and history to the request shows a long standing issue which has been thoroughly investigated on more than one occasion. It would therefore appear that the complainant is trying to reopen issues that have already been addressed.
50. He is also satisfied that this request is a continuation of an obsessive campaign and that provision of the requested information will not resolve the issue of the complainant's dissatisfaction with Ofsted. To comply with the request is likely to have a detrimental effect upon Ofsted as it could lead to further communication from the complainant which may continue to be aggressive.
51. The Commissioner notes the hostile tone of the complainant's correspondence and the persistent demands to Ofsted. He considers an inappropriate use of the FOIA. He also notes the fact that the complainant has abused her rights of access to information by using the legislation as a means to vent her anger at Ofsted's decision.
52. The Commissioner therefore finds that this request can be considered as vexatious and that Ofsted is correct to apply section 14(1) of the FOIA in this case.

## Right of appeal

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53. 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)

54. 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.
55. 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**  
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**SK9 5AF**