

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 August 2015

Public Authority: Corelli College

Address: Corelli Road
Blackheath
London
SE3 8EP

Decision (including any steps ordered)

1. The complainant has requested information from Corelli College ("the College") about Wi-Fi provision.
2. The Commissioner's decision is that the College has correctly applied section 14(1) of the FOIA to the request.
3. The Commissioner requires the College to take no steps.

Request and response

4. On 15 December 2014, the complainant wrote to the College and made a request for information. A copy of the requests are set out at the end of this notice.
5. The College responded on 29 January 2015. It refused to comply with the request on the basis that it was vexatious in accordance with section 14(1) of the FOIA.
6. Following an internal review the College upheld its previous decision.

Scope of the case

7. The complainant contacted the Commissioner on 10 May 2015 to complain about the way his request for information had been handled.

8. Specifically, the complainant disputed the College's application of section 14(1) of the FOIA to the request.
9. The Commissioner has therefore had to consider whether the College was correct to apply section 14(1) of the FOIA to the request.

Reasons for decision

10. Section 14(1) of the FOIA states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.
11. The term "vexatious" is not defined in the FOIA. The Upper Tribunal considered the issue of vexatious requests in the case of *Information Commissioner v Devon CC & Dransfield*.¹ The Tribunal commented that vexatious could be defined as the "*manifestly unjustified, inappropriate or improper use of a formal procedure.*" The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.
12. In the *Dransfield* case, the Upper Tribunal also found it instructive to assess the question of whether a request is truly vexatious by considering four broad issues: (1) the burden imposed by the request (on the public authority and its staff); (2) the motive of the requester; (3) the value or serious purpose of the request; and (4) the harassment or distress of and to staff. The Upper Tribunal did however also caution that these considerations were not meant to be exhaustive. Rather it stressed:

"the importance of adopting a holistic and broad approach to the determination of whether a request is vexatious or not, emphasising the attributes of manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious request." (paragraph 45).
13. In the Commissioner's view the key question for public authorities to consider when determining if a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.

¹ UKUT 440 (AAC) (28 January 2013)

14. The Commissioner has identified a number of "indicators" which may be useful in identifying vexatious requests. These are set out in his published guidance on vexatious requests.² The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of a case will need to be considered in reaching a judgement as to whether a request is vexatious.

The College's arguments

15. The College explained to the Commissioner that the complainant has a continuing campaign against the use of Wi-Fi in the College. The College explained that there has been a significant amount of correspondence as well as requests for information under the FOIA by the complainant about the use of Wi-Fi within the College. The College explained that it has responded to the complainant and addressed his correspondence but he does not appear to take into account any of the responses or explanations that are provided.

16. The College provided the Commissioner with some of the correspondence that the complainant has directed to the College to demonstrate the volume of correspondence it receives. The College argued that:

"...this level of correspondence represents the pursuit of issues beyond the point a fair minded member of the public would consider reasonable. The College is of the view that this level of correspondence on the same subject matter can readily be characterised as obsessive.

17. The College was also of the view that this level of correspondence has had the effect of harassing the College and its staff and diverting staff away from their primary duties.

18. The College advised the Commissioner that it and the local Council has continued to consider requests made under the FOIA and any other correspondence on Wi-Fi on its merits. It explained that it has done this by arranging meetings with staff and College Governors to consider the concerns raised by the complainant. However, the College concluded by stating that the volume and pattern of requests and correspondence

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[http://www.ico.org.uk/~media/documents/library/Freedom_of_Information/Detailed_special_guides/dealing-with-vexatious-requests.ashx](http://www.ico.org.uk/~/media/documents/library/Freedom_of_Information/Detailed_special_guides/dealing-with-vexatious-requests.ashx)

made by the complainant had placed a significant burden on the College and it was clear that the complainant had no intention of letting matters lie to the point that he is pursuing the College on the topic of Wi-Fi to an unreasonable level.

The complainant's arguments

19. The complainant disagreed with the College's application of section 14 to his request. He explained:

"I believe the allegation to be quite untrue and to proceed from evasion".

20. He advised that the meetings that the College had arranged to discuss his concerns *"failed to meet its obligations"*.
21. During a telephone conversation with the Commissioner, the complainant acknowledged that he may be being an annoyance to the College. However, he argued that he was only a friend passing on an unwelcomed message.

The Commissioner's View

22. The Commissioner appreciates that the complainant has a strong interest in information relating to the Wi-Fi provision at the College. He also acknowledges the context in which the request was made and why the complainant continues to send correspondence to the College regarding this subject, as he considers it to be a serious matter than needs to be addressed. This is clear from the correspondence he has sent to the College on the matter.
23. After reviewing the College's arguments and the evidence it has provided to support its position, it appears that the College has addressed the complainant's concerns numerous times and this leads to further correspondence on the subject. The Commissioner consequently agrees with the College in that any response to this request is likely to lead to further correspondence and requests from the complainant on the same or similar subject matter.
24. The Commissioner's acknowledges that the continued correspondence on this matter is a burden on the College and would consider that the exemption set out at section 14 prevents an individual from placing a drain on public authority's resources.
25. In light of this and on the basis of the College's arguments, the Commissioner has concluded that the request is vexatious and the College was correct to apply section 14(1).

Right of appeal

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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

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

Rachael Cragg
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