

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 December 2015

Public Authority: University of Bolton

Address: Deane Road
Bolton
BL3 5AB

Decision (including any steps ordered)

1. The complainant has requested from the University of Bolton (the "University") information relating to a staff member's academic qualifications.
2. The University refused to comply with the request and applied section 14(1) of the FOIA to the request.
3. The Commissioner's decision is that the University has correctly applied section 14(1) of the FOIA. Therefore the Commissioner does not require the University to take any steps.

Request and response

4. On 25 May 2015 the complainant wrote to the University and requested information in the following terms:

"Please could you provide answers to the following questions under the Freedom of Information Act:

1 Where did (redacted name) study and gain her LLD (or is this an honorary title?)?

2 What Honorary award has she been granted by the University of Bolton and when?

3 What was the award given for?

4 What is (redacted name)'s Legal practice certificate number?

5 What is her Law Society Registration Number?

6 When did she register as a practising solicitor?

7 Has she carried out any other work for individuals set out in rule 4 of the SRA practice framework rules 2011?

8 Are these individuals employed as staff at the University; or individuals with no relationship to the University?

9 Does (redacted name) have individual Professional Indemnity Insurance cover and if so for how much cover?"

5. On 19 and 23 June 2015 the complainant wrote to the University to chase its response to his information requests.
6. On 8 July 2015 the complainant chased these requests with telephone calls to the University in which he was asked to email his request.
7. On 15 July 2015 the complainant contacted the Information Commissioner's Office (the "ICO") about the University's nil response to his information requests.
8. On 11 August 2015 the ICO advised the University to respond to the requests within 10 working days.
9. The University responded on 14 August 2015 to the ICO and stated that it considered the requests to be invalid under section 8(1) of the FOIA on the basis that it considered the complainant to be using a pseudonym. It also argued that his requests were vexatious under section 14(1) of the FOIA.
10. The University included in its response, a copy of a final statement (dated 29 May 2015) which the University explained had been prepared by the University's lawyers in relation to the dismissal of two individuals and what it believed to be a campaign of harassment. It further explained that the statement had been issued by post to the relevant individuals which the University had been "*able to substantiate are not operating under a pseudonym or alias.*"
11. On 25 August 2015 the ICO asked the University to confirm whether its final statement was sent to the complainant. If not, had the University responded to the request of 25 May 2015?
12. On 26 August 2015 the University confirmed that the final statement was not sent to the complainant as it did not have his contact email address only the 'What do They Know.com' email account address.

13. On the same day the ICO informed the University that it should revisit the request, issue the complainant with a response and provide him with an explanation as to why his requests are not valid under section 8 of the FOIA.
14. On 27 August 2015 the University provided the complainant with a response to his requests for information and it sent a copy to the ICO. In its response the University explained why it did not originally respond to the requests as it considered that the complainant was using a pseudonym to submit requests, therefore rendering the request invalid.

Scope of the case

15. The complainant contacted the Commissioner on 7 September 2015 to complain about the way his request for information had been handled.
16. Following further correspondence the University maintained its position to rely on section 14 of the FOIA. However, the University withdrew its argument that the complainant was using a pseudonym to submit requests.
17. The University maintained its reliance on section 14 and also applied sections 21 and 40 of the FOIA to the request.
18. The Commissioner will consider whether the University was entitled to rely on section 14. If this exemption does not apply to the request, the Commissioner will then consider sections 21 and 40 of the FOIA.

Reasons for decision

Section 14 – vexatious requests

19. 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).
20. 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.

21. In making his decision the Commissioner has obtained submissions from both the complainant and the University to understand the circumstances surrounding the request in order to reach a decision on whether the request is vexatious. The Commissioner will consider their arguments where appropriate.

The University's position

Vendetta campaign

22. The University explained that since February 2015 it has been subject to *"an unprecedented and sustained vendetta campaign by a number of individuals directed towards the University, its trustees and employees and other individuals."* The University said that it had been repeatedly asked for information under the pretence of the FOIA which were made directly to the University via the WhatDoTheyKnow.com website and which the University considers has been orchestrated by a small group of individuals.
23. The University added that the complainant's requests were made via the WhatDoTheyKnow.com website. Therefore, it considers that it is reasonable to imply that the complainant would have access to and be able to view all requests made to the University including its responses.
24. The University provided a copy of a press release by way of example, which evidently shows that the complainant, along with others is part of a campaign. This press article confirms that the complainant is an active member of the Campaign for an Ethical University of Bolton ("CEUB"). As a result, the University considers that it would be reasonable to infer that they would have been aware of the other requests for information as part of the co-ordinated vendetta campaign and the responses given.
25. The University explained that following the start of the vendetta campaign it did respond to six requests for information which appeared to be related to the campaign.
26. Further to the vendetta campaign, the University explained that its lawyers prepared a formal statement (29 May 2015) setting out the University's position on this campaign. The University argued that the sustained, sinister and often personal nature of the vendetta campaign posed a distraction to its core business. It also argued that the CEUB had made offensive and defamatory statements and inferences against named individuals including from within the University's senior management team and Board of Governors.
27. As part of this vendetta campaign, the University argued that it had received a total of 26 requests from 12 individuals with 22 of the requests made via the WhatDoTheyKnow.com website. The University

further argued that in a press release from Bolton News (dated 26 September 2015), CEUB confirmed that it had submitted more than 20 FOI requests and that issue 6 of the CEUB blog confirmed that the requests are submitted as part of this campaign and had listed them (an enclosure was provided to the Commissioner to support this).

28. The University added that during this time period, the complainant had submitted three requests (including the one which is the subject of this case). It is of the view that the complainant's requests should not be considered in isolation but in conjunction with the other requests as part of a wider pattern of collective vexatious requests by the complainant and others.
29. The University considers the evidence presented demonstrated that there is an association between the requests, derived not only from the timing but also due to the similarities in the information requested.
30. The University is of the view that the complainant's requests have been made in the context of the vendetta campaigns and that his requests relate to the allegations put forward by the CEUB blog. It added that the complainant had no previous history with the University in making use of the FOIA up to this point and that it considered the requests are not a coincidence of timing.

Burden on the authority

31. The University explained that it has aggregated the complainant's requests with others received from those who it considers have been collectively acting in pursuance of the campaigns. This, it argued, is because the University considers the complainant's requests are part of a wider campaign agenda.
32. The University added that in aggregating the series of requests, it estimates that the cost of compliance in respect of staff time required to determine, locate, retrieve, collate and prepare the information requested, would exceed the appropriate limit for educational institutions. The University therefore considers that this would place a significant burden on its resources in terms of staff time and expense.
33. The University informed the Commissioner that as it is a small educational institution, it does not have a dedicated FOI Officer or a team of FOI officers. It explained that staff members in addition to their existing roles undertake the duty to respond to any FOI request, this has created an additional burden and distraction to performing their other duties.
34. The University argued that it has already spent a significant amount of time and associated cost in responding to this request and other

requests and complaints submitted by those who in its view, have been collectively orchestrating the campaigns. The University stated that this distraction to its core business is not sustainable or justifiable. It asserted that this is an inappropriate misuse and abuse of the FOIA process to further the collective vendetta campaigns.

35. In support of aggregating the requests, the University argued that these requests are connected. The University stated 26 requests were submitted and that 9 of them related to the Vice Chancellor of which 5 were solely related to his qualifications. It further stated there were 7 related to the University Board of Governors and 8 related to the University's finances.

Deliberate intention to cause annoyance

36. The University argued that the purpose of the 26 requests submitted was to provoke, cause annoyance and irritation and to disrupt the workings of the University. The University considered the requests as seeking to attack the senior management team and Board of Governors with untrue and unfounded allegations of which, in its view, is a personal or political vendetta.
37. The University contended that the intent and extent of the campaign activities were evident in the information provided in its letter to the ICO dated 30 September 2015. It said it is also evident in the minutes of a CEUB meeting, the University provided this to illustrate what it considers as an inappropriate misuse and abuse of the FOI process to further the collective vendetta campaigns.
38. The University argued that the complainant is an active and principal participant of CEUB and believes that he has written (possibly in collaboration with others) the sketches as posted on the CEUB blog spot. The University said that this contained offensive and defamatory statements and inferences about named individuals of the University and Board of Governors. Evidence was provided to the ICO to support this.
39. The University is of the view that the complainant and the CEUB intended to seek to cause the University and named individuals considerable distress and reputational damage. It argued that this was generated by making public such unfounded allegations and insinuations alleging financial and procedural irregularity, including mismanagement and wrongdoing.
40. The University argued further that these unfounded allegations continue to be made and that the complainant's denigration of the University will cause an impact on the University's students and graduates.

41. The University considers the complainant's requests are not in pursuit of any genuine public interest and that the purpose and value of the requests does not provide sufficient ground to justify the distress incurred by complying with them.
42. The University noted that most of the 26 requests had been submitted during the relevant period via the WhatDoTheyKnow.com website with the University's responses in the public domain and available for the public to see. Therefore as the complainant's requests were submitted via this website, the University considered that it is reasonable that he would have been aware of and/or able to see the other similar and/or associated requests submitted to the University and other institutions, and the responses provided prior to submitting his own requests.
43. The University asserted that the complainant's requests were vexatious given the circumstances. It added that these requests are part of a sustained collective vendetta campaign against the University, its senior management team and Board of Governors which it considers demonstrates obsessive and harassing behaviour.

No obvious intent to obtain information

44. The University argued that some of the information requested is and was already in the public domain. It added that this request for an employee's professional qualifications is readily available on The Law Society's website.
45. The University considers that there is minimal public benefit in disclosure as the requests, in its view, are to try to bring the institution into disrepute by the making of unfounded insinuations and inferences. Therefore, the University believes that this lacks any intrinsic merit.
46. The University argued that the complainant may claim that his requests have serious value and purpose and are not part of a collective vendetta campaign but the University states that this is outweighed by other considerations. It argued that with this and the evidence provided to the ICO, has led to the University's conclusion that the complainant's requests are vexatious.

The Commissioner's position

47. The Commissioner notes that the University considers the complainant's requests have been organised by a group of individuals which it believes is part of a vendetta campaign. He acknowledges the evidence provided by the University which confirms that the complainant is part of the campaign group. This evidence included the following:

- A copy of a press article which shows that the complainant and other individuals are part of the campaign.
- The press article which confirms CEUB had submitted more than 20 FOI requests to the University.
- Correspondence which confirms CEUB had submitted a total of 26 FOI requests as part of this campaign and a list of them.
- Evidence which demonstrates an association between the requests derived from the timing and the similarities in the information requested.
- The requests relating to allegations submitted by the CEUB blog.
- A large bundle of correspondence which includes minutes of CEUB meetings, details of honorary degrees, honorary appointments and statements made by CEUB relating to named individuals of the University and Board of Governors.

Conclusion

48. In light of the evidence presented, the Commissioner is satisfied that the University is entitled to consider the request in the context of the campaign initiated by CEUB.
49. When taken into account the number of other similar requests received by the University, the Commissioner accepts that this has imposed a significant and disproportionate burden on the University in terms of the expense and distraction which was caused.
50. The Commissioner acknowledges that the complainant may have a genuine interest in obtaining the information requested and may not have intended to cause inconvenience to the University. However, taken in the context of the other requests, the Commissioner is satisfied that CEUB, which gave rise to these requests, has caused disruption and annoyance to the University and inevitably had the effect of harassing its staff.
51. The Commissioner has therefore determined that the University is entitled to characterise these requests as manifestly unreasonable and has consequently applied section 14(1) of the FOIA to the request. The Commissioner has not considered the application of sections 21 and 40 in this case.

Right of appeal

52. 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: GRC@hmcts.gsi.gov.uk

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

53. 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.
54. 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

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