

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 March 2016

Public Authority: The Governing Body of the University of Cambridge

Address: The Old Schools
Trinity Lane
Cambridge
CB2 1TN

Decision (including any steps ordered)

1. The complainant requested information concerning the University of Cambridge's ("the University") alumni associations. The University did not respond to the request in reliance on section 17(6) of FOIA.
2. The Commissioner's decision is that the University is entitled to rely on section 17(6) and was therefore not obliged to respond to the complainant's request.
3. The Commissioner does not require the public authority to take any steps to ensure compliance with the legislation.

Background

4. The University advised the Commissioner that the complainant is an alumna of the University who completed her degree course in 2001. It informed him that the complainant has engaged in extensive correspondence with many individuals and offices at the University since autumn 2012, in relation to what initially began as a grievance about data handling and alumni relations. The University advised that the complainant's campaign has since broadened into general discontent about the University's interactions with her and its management of her concerns including complaints about the University's handling of Data Protection Act ("DPA") and FOIA requests.

5. On 28 October 2014, the complainant submitted a request for the election statement of Michael Mansfield QC for the election of Chancellor in 2011.
6. On 11 November 2014 the University refused the request under section 14(1) of the FOIA on the basis that the request was vexatious. The University also advised the complainant that it would not issue a refusal notice in response to any future FOIA requests it considered were repeated and/or vexatious in accordance with section 17(6) of FOIA.
7. Following an internal review request submitted by the complainant on 17 December 2014, the University issued an internal review decision on 13 January 2015, in which it upheld the application of section 14(1) in refusing the request.
8. Following receipt of a complaint from the complainant, the Commissioner considered whether the University was correct to apply section 14(1) of FOIA in relation to the request of 28 October 2014. In his Decision Notice under reference number FS50574979, he concluded that the University had correctly relied on section 14(1) in refusing the request.

Request and response

9. On 11 June 2015 the complainant wrote to the University and asked for the following information:

"In your email of 21st August, 2014, you state:

'I've replied to Ian to say what has been going on. Has he been filled in on what has been happening?'

Please could you provide me with a copy of the reply you refer to and any answers you received to your question.

Please also provide me with copies of any other correspondence or information you send to anyone about me.

On 5th August, you advised me that the university had mediated with alumni associations. Please could you provide me with the information on which you based your advice."

10. The University did not respond to the request. On 5 August 2015, the complainant requested that the University carry out an internal review. The University did not respond to the request for an internal review.

11. The Commissioner contacted the University on 18 January 2016, following the complainant's complaint that it had failed to respond to her request.
12. The University replied to the Commissioner on 22 January 2016. It confirmed that it did not respond to the complainant's request as it had advised her by way of an email dated 11 November 2014, that future FOIA requests would not receive a response in accordance with section 17(6) of FOIA, if the University considered the request to be vexatious.

Scope of the case

13. On 13 October 2015 the complainant complained to the Commissioner that she had not received a response to her request of 11 June 2015.
14. The Commissioner considered whether the University was entitled to rely on section 17(6) of FOIA as a basis for not responding to the complainant's request.

Reasons for decision

Section 14(1) – Vexatious requests

The University's arguments

15. The University informed the Commissioner that it considered that the complainant's request of 11 June 2015 contained a request under FOIA concerning alumni mediation practices in general and a subject access request under section 7 of the DPA concerning the correspondence of an individual at the University about the complainant. It informed the Commissioner that this email was amongst several emails from the complainant in June 2015 that were answered by way of an email dated 19 June 2015. The University explained that the email of 19 June 2015 contained a statement that the complainant's email of 11 June 2015 raised matters that had repeatedly been addressed in the past.
16. The University went on to explain to the Commissioner that the complainant's request under FOIA contained in her email was not answered under section 14(1) of FOIA by virtue of the University's communication to her dated 11 November 2014 citing section 17(6) of FOIA. It informed the Commissioner that the subject access request contained in the email of 11 June 2015 was not answered because all such personal data that existed, and which was not exempt from disclosure, had already been disclosed to the complainant following a

wide-ranging subject access request submitted on 13 February 2015 and answered on 25 March 2015. It pointed out that this subject access request should not be confused with the subject access request (concerning correspondence between the University and the ICO) contained in another of the complainant's emails of 11 June 2015 that was answered in the University's response of 19 June 2015 by way of the supply of the relevant intervening items of personal data that the complainant had not already received, and for which the University waived its fee.

17. In relation to the complainant's email of 5 August 2015 requesting an internal review, the University explained that this was addressed to its Joint Head of Legal Services and as such did not follow the University's proper internal review procedure (of which the complainant was aware). Accordingly it did not require and did not receive a response under the terms of FOIA, although it was one of several emails sent by the complainant in the period July-September 2015 that were referred to in an email from the Joint Head of Legal Services dated 8 September 2015.

The complainant's arguments

18. The Commissioner has received a considerable amount of correspondence from the complainant. He has sought to identify from this correspondence what he believes are the complainant's main arguments as to why she believes that section 14(1) is not applicable to her request.
19. The complainant argued that the University had done all it could not to reply or respond or be helpful in response to any FOI request. She stated that most of her DPA requests were treated the same way, for example the University had just refused a SAR for the second time, claiming it has already provided the information when it had not or that it would not reply to matters which it believes the ICO has already dealt with. However, she did not believe that the ICO had dealt with the matters concerned. She was therefore of the view that there was clear and ongoing evidence of the University resisting its information rights on pretexts and provided what she considered were a number of examples of this.
20. The complainant explained that she believed that only the person at the University who received her email could say why her request was found to be vexatious. She did not believe that it was appropriate for other staff at the University to be involved in determining whether her request was vexatious. She also explained that she met the person to whom she had made the request at a university conference in July 2014 and that he gave her his email address in order to send him enquiries. She stated

that she and other delegates at the conference had raised various issues concerning matters such as budgets and audits.

21. The complainant informed the Commissioner that the same offer was made by the Vice Chancellor in June 2013 to contact him directly with a concern. She queried why these two individuals found her requests vexatious after offering to receive them. She alleged that there was a pattern of behaviour among the University's admin staff (under the influence of individuals from other Cambridge organisations) of making things up and false inferences about her so as to put people off answering. The complainant claimed that the aim of these other Cambridge bodies was to use the University to help them hide information, not just from her, and that they published an information policy preventing anyone from accessing information, deleted information and refused access to their archive.
22. The complainant also contended that alumni of the University were at a disadvantage when making FOI requests when compared to members of the public. She believed that this was because the admin staff did not like alumni and because the University shared information about statutory requests made by alumni with its colleges. She alleged that this would not happen to members of the public and placed alumni at a disadvantage as colleges and the University then found requests vexatious on each other's behalf.
23. The Commissioner was informed by the complainant that she had noted how little information had been provided by the University in comparison with the vast quantity of correspondence involving both her and the ICO. She believed that this was partly due to the number of times that she had to keep raising the same issues due to the University's failure to address them and the number of times that she had raised ICO advice that the University had ignored.
24. The complainant informed the Commissioner that she believed that the University had provided misleading information to the ICO. It had made clear in its responses that it would only reply where the law required it and had not replied where it was possible to do so or in the 'normal course of business'. She contended that the University had stated this on many occasions.
25. The complainant argued that there was no evidence that some of the communications involving her, which the University had referred to in its correspondence, had taken place. She disputed that there was the amount of correspondence from her about the alumni associations as the University had suggested. She also believed that the University had misled the Commissioner as to its dealings with her and that it had created a picture about her by distorting facts and exaggeration.

26. The complainant noted that the ICO encourages organisations to compromise and resolve matters informally. She explained that she had exhaustively tried to get the University to do this over the last two years and provided what she believed were examples of this.
27. The Commissioner was informed by the complainant that she believed that the University had refused to consider how it has contributed to the vexatious situation and refused to adopt problem-solving measures that she had suggested. She also pointed to the numerous attempts she had made to compromise and resolve matters informally with the University over the requests that she had made
28. The complainant argued that there were examples of bad practice by the University in the handling of her requests which were not permissible under the ICO's good practice guidance. She stated that the University was applying the vexatious exemption to all requests she made and not treating each one afresh and that it continued to find all requests vexatious even though she had not made any for several months. In her view, it would have been relatively straightforward and saved a considerable amount of time had the University simply provided the information that she had requested.

The Commissioner's view

29. The University sought to rely on section 17(6) of FOIA as a basis for not replying to the complainant's request.

30. Section 17(5) of FOIA states that:

'A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.'

31. Section 17(6) of FOIA further states that:

'Subsection (5) does not apply where-

- (a) The public authority is relying on a claim that section 14 applies,*
- (b) The authority has given the applicant a notice, in relation to a previous request for information, stating that it is relying on such a claim, and*
- (c) It would in all the circumstances be unreasonable to expect the authority to serve further notice under subsection (5) in relation to the current request.'*

32. The Commissioner considered whether each of the requirements of section 17(6) has been met.
33. Section 17(6)(a) requires that the public authority is relying on a claim that section 14 applies. During the Commissioner's investigation the University confirmed that it was relying on section 14(1) of FOIA as it believed that the complainant's request was vexatious. The Commissioner is therefore satisfied that the requirements of section 17(6)(a) are met.
34. Section 17(6)(b) requires that the public authority must have previously issued a refusal notice stating that it is relying on section 14. The approach of the Commissioner is that the public authority should also have advised a requester that future similar requests will not be responded to.
35. The University issued a refusal notice on 11 November 2014, in response to a number of information requests submitted by the complainant including her request dated 28 October 2014 which was the subject of the Commissioner's Decision Notice under reference number FS50574979.
36. In its refusal notice the University advised the complainant that it was relying on section 14 of FOIA in refusing the requests and that it would not issue refusal notices if it considered future requests to be repeated and/or vexatious. The refusal notice stated:

"Section 17(6) of the Act states that that a public authority need not issue a refusal notice under section 14(1) or 14(2) of the Act if it has already given the same person a refusal notice for a previous vexatious or repeated request and if it would be unreasonable to issue another one. In accordance with the ICO's guidance on this part of the Act, please take this email as formal notice that the University will no longer issue refusal notices to you if we consider your future requests under the Act to be repeated and/or vexatious. If 20 working days have passed from the date on which you have submitted what you consider to be a request under the Act, and you have not received a response, you may assume that the University considers your request to be repeated and /or vexatious and will not be issuing a refusal notice in response."

37. The Commissioner is satisfied that the University previously informed the complainant, via a refusal notice, that it relied on section 14 not to provide the requested information and that future requests which it also considered vexatious would not receive a response. The Commissioner

therefore considers that the requirements of section 17(6)(b) have been met.

38. In considering section 17(6)(c) and the issue of whether it would be unreasonable to expect the University to respond to the request, the Commissioner has considered whether the University is correct that this request relates to the complainant's long running and ongoing grievance with it. He has also considered whether, even if that is the case, the request nevertheless has some overriding value that means it would be reasonable for the University to respond to it.
39. The Commissioner notes the arguments presented by the complainant as to why she does not believe that section 14(1) is applicable to her request. However, he is satisfied that from the wording of the request and his previous knowledge of the complainant's dealings with the University, as detailed in FS50574979 (and the linked Decision Notices under reference numbers FS50574062, FS50574980 and FS50575377), that the request does relate to her ongoing grievance with the University.
40. Taking into account the background of the case, the Commissioner considers that the request relates to the issues between the parties and could cause harassment and distress to staff. The Commissioner also considers that the request in this case appears to be a means of furthering the complainant's grievance with the University which can be considered an inappropriate use of information rights under FOIA.
41. Having reviewed the request, the Commissioner does not believe that it has some overriding value that would make it reasonable for the University to respond to it.
42. The Commissioner therefore finds that the University has met the requirements of section 17(6) of FOIA and was not obliged to respond to the complainant's request.

Right of appeal

43. 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

44. 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.
45. 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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