

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 March 2016

Public Authority: University of Oxford
Address: University Offices
Wellington Square
Oxford
OX1 2JD

Decision (including any steps ordered)

1. The complainant has requested information from the University of Oxford ("the University") broadly relating to any communications sent to or from Oxford University Administration and Services staff members in relation to ice hockey from the 1st November 2012 to the date of the request.
2. The Commissioner's decision is that the University has correctly applied section 14(1) of the FOIA to the request.
3. The Commissioner requires the University to take no steps.

Request and response

4. On 4 September 2015 the complainant wrote to the University and requested the following information:

"Please could you supply any communications sent to or from Oxford University Administration Services (UAS) staff members in relation to ice hockey from the 1st November 2012 to the date of this request.

In particular your response should include communications to or from current or former staff members from the Sports Federation, Sports Department, Sports Strategic Subcommittee of the Education Committee, Student Administration and Services, the Proctors' Office, the Registrar's Office, and the Vice Chancellor's office.

As a guide, this should include communications sent to or from any current or former staff members that have had the use of an Oxford University email address ending in "admin.ox.ac.uk", "proctors.ox.ac.uk" or "sport.ox.ac.uk", although your response should include all communications, not only those emails sent from their "admin.ox.ac.uk", "proctors.ox.ac.uk" or "sports.ox.ac.uk" email addresses.

Please include communications sent to, or which mention, discuss or otherwise relate to, the following subjects:

- *the sports of ice hockey*
- *ice hockey teams, clubs or other organisations*
- *ice hockey governing bodies including the British Universities Ice Hockey Association*
- *ice hockey awards, including Oxford Blues awards*
- *ice hockey funding*
- *ice hockey players (students or alumni)*
- *ice rinks*
- *ice hockey fixtures*
- *meetings with or other communications to or from ice hockey players.*

As a minimum your response should include keyword search on the University email servers for the aforementioned domains, including all backups and archives, using the phrase "ice hockey".

Please also include any official information held in private email accounts in line with the Information Commissioner's Office guidance, in particular where UAS staff responsible for administration of Oxford University sport have used private email or social media messaging services to communicate with other staff members, Oxford University students, and others outside the University on the above subjects.

Should you consider that any information requested is exempt from your obligations under the Freedom of Information act, please would you:

- *state the legal exemption invoked and why you consider this information is exempt;*
- *reference the specific information to which the exemption applies (i.e. page or line reference to redacted information in a particular document);*

- *include any portions of a given document that are not exempt along with the redactions. For example, should the entire body of an email be exempt, please supply the email header information along with the redacted body.*

Please could you supply the requested information in chronological order (based on the date it was created) in a single paginated pdf file sent to this email address. If you only have hard copies, or if there is some other particular reason, hard copies would also be acceptable”.

5. The University responded on 2 October 2015 and applied section 14(1) to the request.
6. Following an internal review, the University upheld its previous decision.

Scope of the case

7. The complainant contacted the Commissioner on 12 January 2016 to complain about the way his request for information had been handled.
8. Specifically the complainant was dissatisfied with the University's application of section 14(1).
9. The Commissioner has therefore had to consider whether the University was correct to apply section 14(1) to the request.

Reasons for decision

10. Section 14(1) states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious. There is no public interest test.
11. The term “vexatious” is not defined in the FOIA. The Upper Tribunal (information Rights) considered in some detail the issue of vexatious requests in the case of the *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.

¹ GIA/3037/2011

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) harassment or distress of and to staff.

13. 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 requests" (paragraph 45).

14. 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.

15. 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 University's position

16. The University explained that there has been a private dispute between the Oxford University Sports Federation (the department of the University that oversees student sports clubs) ("OUSF") and the Oxford Ice Hockey Trust (a team and club that is independent to the University). The requested information relates broadly to that dispute.

17. The University explained that it has made numerous attempts to resolve the dispute between the OUSF and the Trust. These include:

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http://ico.org.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx

- Approaches being made by the Senior Member of the University's officially recognised Ice Hockey Club ("the Club) and the Trust to seek to identify a resolution;
 - Convening a series of meetings between the then Senior Proctor and the Director of Student Administration and Services, and representatives of the Trust to seek to identify resolution of the issues.
 - Attending a meeting convened for both parties by a major donor to ice hockey at the University, with a view to seeking the input of a highly interested but independent third party. The University confirmed that no representatives of the Trust attended the meeting. The University also explained that the Trust rejected an offer of a third party who did attend the meeting to act as an intermediary between the Club and the Trust.
18. The University explained that since March 2013, the University has received 15 Freedom of Information requests relating to ice hockey from individuals known by the University to be involved with the Trust in some capacity. The University provided the Commissioner with details of the requests that have been made previously. He notes that 10 requests were complied with and the remaining five were refused on the grounds that they were vexatious.
19. The University confirmed to the Commissioner *that "the requests were extremely time-consuming to process, both for the individuals holding the information and for staff in the Information Compliance Unit, diverting resources from other core duties"*.
20. In its submissions, the University provided the Commissioner with an example of a request it had received from an individual associated with the Trust on 25 May 2013. The University explained that processing the request required consultation with 23 individuals who held information relevant to the request. The University also explained that the Sports Federation department within the University estimated that it took 60 hours to locate and retrieve the information that was requested. In addition the University argued that the repetitious nature of the requests, the unreasonable persistence of the requesters and in some instances, hostile and offensive tone of the requests (for example, request of 1 November 2014) has caused distress to staff in the Sports Federation and the Information Compliance Unit.
21. To support its position that the request was vexatious, the University explained that the requests relate to a private dispute between the University and a group of its former ice hockey players and that whilst the matter in question may be of personal interest to the requester and

those acting in concert with him, the requests do not satisfy any wider public interest.

22. The University also considered that the series of requests it has received demonstrates a scattergun approach and an attempt to fish for information to find something that will open up a *"second front"* in the continuing dispute between the Trust and the University. It further considered that the overlapping requests demonstrated an unreasonable persistence and that the requests are placing an unreasonable burden on the University. It argued that the requests are causing an unjustified level of disruption and irritation and they are having a negative impact on some members of staff. In making this statement, the University explained that it was mindful of the considerable resources that have already been invested in an attempt to resolve the dispute between the Trust and the University.
23. To conclude, the University stated that compliance with the request would place an unjustified and disproportionate effect on the University. It further stated its view that the legislation was being used inappropriately.

The Commissioner's view

24. The Commissioner has reviewed the information provided by the University to support its position that the request is vexatious.
25. He considers that if the University complied with the request, it would not resolve the dispute and it is highly likely that it would remain on-going. In addition to this, the Commissioner considers that any response to the request is highly likely to lead to further correspondence and it is likely to add to the dispute rather than resolve it.
26. With reference to paragraph 22, the Commissioner accepts the University's argument that the request is *"an attempt to fish for information to find something that will open up a "second front" in the continuing dispute between the Trust and the University"*.
27. The Commissioner does appreciate that the complainant has an interest in the information that has been requested. However, the Commissioner considers that this interest is not a wider public interest and the burden on the University is disproportionate and unjustified, especially as it is distracting the University from its core activities and the University has attempted to resolve the dispute via other means. The Commissioner has also been mindful of the University's argument that the requests are causing distress to members of its staff.
28. The Commissioner accepts that on its own this request is not vexatious. However, taking into account the background of the request, the

previous requests that have been made by individuals associated with the Trust and the failed attempts to resolve the dispute, the Commissioner considers that the University was correct to apply section 14(1).

Right of appeal

29. 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

30. 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.
31. 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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