

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 March 2017

Public Authority: University of Cambridge
Address: The Old Schools
Trinity Lane
Cambridge
CB2 1TN

Decision (including any steps ordered)

1. The complainant has requested from the University of Cambridge (the University) information regarding entry admissions to the Bachelor of Theology course at Ridley Hall between the years 2010 and 2016.
2. The Commissioner's decision is that the request is vexatious and the University has correctly applied section 14 of the FOIA to refuse the request. She also considers the University had been correct to not issue a refusal notice under section 17(6) of the FOIA.
3. Therefore, the Commissioner does not require the University to take any steps.

Request and response

4. On 16 May 2016 the complainant wrote to the University and requested information in the following terms:
"Please clarify how many 'independent students' (non-ordinands) have been admitted to the B.Th. (Bachelor of Theology) at Ridley Hall between 2010-2016?"
5. On 20 July 2016 the complainant wrote to the University and requested the information again.

6. On 29 July 2016 the complainant asked the University to conduct an internal review into what he considered to be a failure to comply with the FOIA.
7. The University confirmed to the Commissioner that it considered the request vexatious and that it did not require a response.

Scope of the case

8. The complainant contacted the Commissioner on 24 August 2016 to complain about the way his request for information had been handled.
9. The Commissioner considers the scope of the case is to determine whether the request is vexatious for the purposes of section 14(1) of FOIA. If so, she will then consider whether the University was correct not to issue a refusal notice under section 17(6).

Reasons for decision

Section 14 – vexatious requests

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. 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.
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.

^[1] GIA/3037/2011

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 her 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.
16. In making her 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.

^[2]http://ico.org.uk/for_organisations/guidance_index/~/_media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx

The University's position

17. The University argued that the complainant had been in continual correspondence with it since 2003. It said that his concerns related to his unsuccessful applications for admission to the University to read Medicine and more recently his application to read for the degree of Bachelor of Theology (B.Th.).
18. The University stated that the complainant had been advised that the Vice-Chancellor's Office was not prepared to engage in further correspondence with him. The University reported that between 2010 and the summer of 2016, the complainant submitted 28 requests for recorded information to the University's central Information Compliance Office, also to various other offices and to individuals. It said that these requests were all broadly in connection with the complainant's non-admission to the University.
19. The University reported that in addition to the complainant's information requests, he had continued since 2010 to issue numerous items of correspondence containing complaints and also threatened to initiate legal proceedings against the University and its individual employees.
20. The University said that the complainant had issued several chasing emails, complaints, allegations of wrongdoing and renewed threats of the intention of legal proceedings. It said that the complainant had directed all of these requests and other communications to multiple members of administrative and academic staff in the Faculty of Divinity and to other departments of the University. It argued that this was despite the fact that the complainant was familiar with the University's dedicated email addresses which it advertised for handling requests under the FOIA.
21. The University provided the Commissioner with samples of the communications described above. The Commissioner notes that many of these communications are extensive compared to the request of 16 May 2016. She also notes that many of the recent emails contain long-running strings of correspondence which include additions to previous strings of correspondence.

Burden on the authority

22. The University considers that to comply with the request would create an unreasonable and disproportionate burden on the University for no public purpose or benefit. It argued that the burden needs to be considered in regards to the overall volume of the complainant's requests and other correspondence. The University said that the cumulative burden on its individual staff member and administrative resources is excessive and unfair.
23. The University also considers that none of the complainant's requests for information have any wider value or purpose beyond the pursuit of his personal grievance regarding his non-admission to the University (the Medicine course and the B. Th.).
24. It argued that the requests are repetitive and obsessive and that many of the requests and associated correspondence are threatening or harassing to members of staff. The University said that members of staff have been distressed by the barrage of correspondence it received.
25. The University is of the view that the complainant is free to institute legal proceedings against it, if he genuinely believes that the University had acted unlawfully in connection with its treatment of him.

The complainant's position

26. It is the complainant's belief that there had been multiple breaches of the FOIA by the University. He argued that it had evaded responding to his correspondence and concealed the information which he requested.

The Commissioner's position

27. The Commissioner notes the background to this case. She has considered the evidence and agrees the complainant appears to be continuing to pursue the issue of his unsuccessful application onto a course at the University. It is evident that the complainant is disputing the University's decision and he is trying to seek reasons as to why this decision should be reversed.
28. The Commissioner acknowledges the burden on the authority, specifically on its individual staff members and administrative resources that the University has spent in dealing with the information requests. She accepts that this and the extensive correspondence which the University has received from the complainant, has caused a disproportionate level of disruption and irritation.

29. The Commissioner notes that for many years the University has dealt with persistent requests for information from the complainant regarding the same subject.
30. The Commissioner has considered whether there is any serious purpose or value for the requested information and if the request was complied with, would it satisfy this purpose. The Commissioner is of the view that the requests are in pursuit of the complainant's personal grievance about his non-admission to the University. Initially, the complainant was in search of his non-admission to the Medicine course and subsequently to the B. Th. Therefore, the Commissioner considers that the requests for information have no wider value or purpose beyond the complainant's grievance.
31. The Commissioner noted that further correspondence was still submitted by the complainant even after he had been informed by the University that his request of 16 May 2016 did not require a response. The Commissioner considers that any response given by the University would likely to lead to follow up requests from the complainant. She is of the view that this would extend the life of the issue regarding the complainant's unsuccessful application to the University.
32. Having considered all the circumstances of this case, the Commissioner accepts that this repetitive nature of returning to the public authority regarding the same topic or for the purposes of making similar requests has imposed an unreasonable burden on the University.
33. The Commissioner has therefore determined that the University is entitled to characterise the request as vexatious and has correctly applied section 14(1) of the FOIA.

Section 17(6)

34. Section 17(6) of the FOIA allows a public authority not to issue a refusal notice at all when both the following conditions are met:
 - the public authority has already given the same person a refusal notice for a previous vexatious or repeated request; and
 - it would be unreasonable to issue another one.
35. The ICO will usually only consider it unreasonable to issue a further notice when an authority has previously warned the requester that it will not respond to any further vexatious requests on the same or similar topics.

36. The Commissioner asked the University why it believes it would be unreasonable to issue a further refusal notice. The University provided a copy of its letters of 10 June 2015 and 22 April 2016 which constitutes its notice to the complainant under section 17(6). The Commissioner notes that the University had reiterated this notice and stated to him that it would not be conducting any further internal reviews of his requests where they did not receive a response by virtue of section 17(6) of the FOIA.
37. The Commissioner acknowledges that the majority of the complainant's communications since 2003 relate to his perceived mistreatment under the University's admissions process. This extends to his more recent correspondence on the B.TH. course, which includes the information request under consideration.
38. The University argued that it had provided the complainant with clear formal statements that it would no longer issue refusal notices to him if it considers his requests for information to be repeated and/or vexatious. The University added that if there is evidence of a similar subject matter in the complainant's continuing communications, then in all the circumstances it stated that it would be unreasonable to expect the University to serve a further notice under section 17(5) of the FOIA in relation to the complainant's request of 16 May 2016.
39. The Commissioner has decided that it was reasonable for the University to apply section 17(6). The Commissioner accepts that the University gave the complainant sufficient warning that future requests for the same information would not be responded to.

Right of appeal

40. 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

41. 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.
42. 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

Alun Johnson
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF