

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 12 October 2017

**Public Authority:** London Fire Brigade  
**Address:** 169 Union Street  
London  
SE1 0LL

#### Decision (including any steps ordered)

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1. The complainant has requested the full names, positions and direct e-mail addresses of members of staff at London Fire Brigade (LFB).
2. The Commissioner's decision is that the London Fire Brigade ("LFB") has correctly applied section 14(1) of the FOIA.
3. The Commissioner does not require the public authority to take any steps.

#### Request and response

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4. On 25 April 2017, the complainant wrote to LFB and requested information in the following terms:

*"Thanks for your e-mail, which I found absolutely unacceptable, as I have requested investigation and inspections of new facts of toxic gases ingress in our house, which appeared after the hearing as a clear vendetta for my rightful complaints, as well as tribunal wrong decision, which is now under review of the Adm. Court.*

*I also requested that all further calls will be attended by the FB teams fully equipped with gas detectors and analyzers, which is a must by LFB regulations.*

*Your email did not address any of my requests and therefore must be appealed and corrected by your superiors.*

*I therefore will appreciate if you provide me with the following information under FOIA 2000:*

1. *Full name, position and direct email address of your superior.*
2. *Full name, position and direct email address of FOI officer.*
3. *Full name and position of the CEO of LFB.*
4. *Full names and positions of 3 FB officers, who visited my floor on the day of reported incident, which have been deliberately cancelled during the hearing in breach of FOIA 2000.*
5. LFB responded on 2 May 2017. It refused to comply on the grounds that the complainant's request was vexatious. Therefore, LFB decided to apply section 14(1) of the FOIA. It also stated that the requests were repeated requests and therefore section 14(2) applied.

### Scope of the case

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6. The complainant contacted the Commissioner on 2 May 2017 to complain about the way his request for information had been handled.
7. The Commissioner considers that the scope of the case has been to decide initially whether London Fire Brigade dealt with this request correctly in accordance with section 14(1) of the FOIA.
8. LFB also cited section 14(2) of the FOIA in its response by arguing that it was substantially similar to a request previously considered by London Fire and Emergency Planning Authority, the Commissioner and the First-Tier Tribunal.

### Background

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9. The complainant's request is a result of his belief that there is a strong smell of chemicals in his flat and he believes these are caused by a conspiracy to poison him that involves the City of London, the City of London Police and LFB. It has been a long dispute which has included correspondence from the complainant to all three public authorities.
10. Related Decision Notice **FS50606156** gives a useful background to the complainant's engagement with LFB. In that particular case, the following request was considered:

*"On 09.06.2015 at about 11:46 pm I called police 999 about strong chemical smell over our block of flats and anti-social behaviour [sic]. I specifically said that I do not want FB officers to attend. Strangely*

*enough, 3 FB officers arrived, absolutely unhelpful jeering, smiling and saying: "we know you", although I do not remember any of them...*

*May I request full identification of the officers (full names, positions and ID numbers) attended my call to police with explanation of the reason why they did attend against my request".*

11. On this occasion, there was no evidence which the complainant could draw upon to cast doubt on LFB's position that it did not hold any specific recorded information which would permit the individual officers who attended his premises to be identified.
12. The first-tier tribunal therefore decided to reject the complainant's appeal.
13. The Commissioner has firstly considered the LFB's application of section 14(1) of the FOIA.

## **Reasons for decision**

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### **Section 14(1) - Vexatious requests**

14. Section 14(1) of FOIA states :

"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.

15. The term "vexatious" is not defined in the FOIA. In the case of Information Commissioner v Dransfield, the Upper Tribunal took the view that the ordinary definition of the word vexatious is only of limited use, because the question of whether a request is vexatious ultimately depends upon the circumstances surrounding that request. The Tribunal concluded that 'vexatious' could be defined as the "... manifestly unjustified, inappropriate or improper use of formal procedure".
16. The decision clearly establishes that the concepts of 'proportionality' and 'justification' are central to any consideration of whether a request is vexatious.
17. The Commissioner has published specific guidance on vexatious requests, which illustrates various indicators of vexatious requests. 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 the case will need to be considered in reaching a judgment as to whether a request is vexatious.

18. As discussed in the Commissioner's guidance, the relevant consideration is whether the request itself is vexatious, rather than the complainant submitting it. A public authority can also consider the context of the request and the history of its relationship with the requester when this is relevant. The Commissioner's guidance states that:

*"The context and history in which a request is made will often be a major factor in determining whether the request is vexatious and the public authority will need to consider the wider circumstances surrounding the request before making a decision as to whether section 14(1) applies."*

19. Sometimes, it will be obvious when requests are vexatious, but sometimes it may not. In this respect the Commissioner's guidance states:

*"In this case where the issue is not clear-cut, the key question to ask is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress".*

### **Disproportionate effect**

20. Section 14 of the FOIA covers requests that would cause a disproportionate and unjustified level of disruption, irritation or distress.
21. Where this is not clear, the Commissioner considers that a public authority should weigh the evidence about the impact caused by the request submitted as part of the campaign against the serious purpose and value of the campaign, and the extent to which the request furthers that purpose.
22. LFB have considered the complainant's request and deemed it to be vexatious for five separate reasons. They stated:
- *"(The request) demonstrates unreasonable persistence by the requester. The requester is attempting to re-open an issue which has already been comprehensively addressed by the public authority or otherwise subjected to some form of independent scrutiny".*
23. The Commissioner accepts that LFB has tried to respond to the complainant's requests and queries on the same underlying issue and that this has simply led to further requests regarding the same issues.
- *"makes unfounded accusations. The request makes completely unsubstantiated accusations against the public authority or specific employees".*

24. From the evidence provided, LFB has had to respond to accusations from the complainant about the way they deal with complaints. The complainant however is unable to deliver any form of evidence which would corroborate his arguments.
  - *“Shows intransigence. The requester takes an unreasonably entrenched position, rejecting attempts to assist and advise out of hand and shows no willingness to engage with the authority”.*
25. This point is very clearly demonstrated by the complainant's refusal to answer either the public authority or the Commissioner's questions throughout the case.
  - *“Frequent or overlapping requests. The requester submits frequent correspondence about the same issue”.*
26. LFB have identified that the complainant's request is similar to requests he has submitted to the organisation before. The Commissioner accepts that the requests are a continuation of a wider pattern of behaviour and engagement.
  - *“The request is futile: the issue at hand individually affects the requester and has already been conclusively resolved by the authority or subjected to some form of independent investigation”.*
27. LFB have confirmed that it has received a number of calls over the past six years to attend the complainant's address and before that to attend another address in connection with reports of this nature. Not only does this suggest the vast strain on resources the complainant is putting on LFB, but also provides sufficient grounds to suggest that LFB would have to incur a large amount of distress, disruption and irritation if they were to comply with the request.

### **The Commissioner's position**

28. The Commissioner has considered LFB's submissions and is satisfied that the request is vexatious and the effort in dealing with the request would be disproportionate.
29. The Commissioner's decision therefore is that LFB did deal with the complainant's request in accordance with the FOIA and were correct to apply section 14(1) of the FOIA to this case.
30. As the Commissioner has found that section 14(1) of the FOIA is engaged, she has not gone on to consider LFB's separate application of section 14(2).
31. The Commissioner does not require the LFB to take any further steps.

## Right of appeal

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32. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

33. 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.
34. 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**  
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