

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 March 2018

Public Authority: Kent County Council
Address: County Hall
Maidstone
ME14 1XQ

Decision (including any steps ordered)

1. The complainant has requested copies of email correspondence sent by a number of named officers at Kent County Council (the council) and staff at Simon Langton Girls' Grammar School. He has also asked for certain information relating to contracts or agreements that have been drafted since January 2017 that relate to any member of staff at the school.
2. The Commissioner's decision is that the council has correctly applied section 14(1) of the FOIA (vexatious request).
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 11 July 2017, the complainant wrote to the council and requested information in the following terms:

'Please provide copies of all email correspondence involving the following Kent County Staff (whether inbound or outbound):

[list of 8 named individuals redacted]

and any additional external individuals (whether inbound or outbound):

[name redacted] (Former Chair of SLGGS)

[name redacted] (Current Chair of SLGGS)

[name redacted] (Former Clerk of SLGGS)

[name redacted] (Current Clerk of SLGGS)

in relation specifically to the Simon Langton Girls Grammar School (SLGGS) in Canterbury, which may or may not include topics such as the Craig Report and/or [name redacted] and/or disciplinary investigation and/or legal agreements and/or financial settlements and/or compromise agreements and/or non-disclosure agreements. Please ensure that any searches include archive/cloud back-ups in case any emails have been deleted on local machines.

To ensure absolute clarity in the request, I am requesting all emails relating to the topics in the paragraph immediately above, but am seeking to restrict the search to any correspondence that includes any / all of the named individuals, to keep the request manageable, precise and focussed [sic].

I should state, that this search should also included [sic] all internal emails from within KCC sent from one staff to one another (or many as the case may be), as well as any inbound/outbound emails (from anyone) relating to the same topics.

Please further advise whether any member of staff within KCC legal services, or Invicta Law, have drafted any contracts or agreements for any member of staff at SLGGS since January 2017 onwards.'

5. On the same date the complainant sent further correspondence to the council requesting the following:

'In addition to the list of names individuals [sic] in my request above, please add:

[name redacted] (Former HT of SLGGS)

To the list of named individuals'

6. The council provided a response to the complainant on 12 July 2017 advising that it had found his request to be too broad. It invited the complainant to provide details of the specific time period that he would like his request to cover.

7. The council also provided a link¹ to what it described to be a similar request, suggesting that its response to that request may be of interest to the complainant.
8. The complainant responded to the council on 12 July 2017 expressing his surprise that it had viewed his request to be too broad. However, he did go on to refine his request to cover all relevant information held that fell between the dates 1 January 2017 to present time. He stated that it was his belief that the timeframe he had provided was unlikely to identify more than fifty emails that would fall within the scope of his request.
9. The council then responded to the complainant's request on 8 August 2017. It advised that '*after much consideration*', it had decided to withhold the information under section 12(1) and 14(1) of the FOIA.
10. With regards to section 12(1) the council advised that whilst the claimant had refined his request, a traffic report which had been generated still initially identified a vast amount of emails which could be relevant to the request. It stated that:

'To drill down and capture the relevant emails would take an excessive amount of time for an already overstretched resource, and would exceed the limit of £450 as set by the Act. Upon locating the relevant information it is most likely that FOIA exemptions would apply in any event and very little new information would come into the public domain as a result of the disclosure sought.'
11. The council then went on to say that '*above and beyond applying the section 12 exemption*', it believed the request to be vexatious. It stated that it had received a number of requests from the complainant that were on similar lines, and that it was of the view that it had provided a fully considered answer in response to each of those requests.
12. The council also stated that it had received numerous requests on a similar theme from other individuals. It advised that the pattern of behaviour shown by these requests was a campaign by the complainant, and others, to place a disproportionate amount of pressure on the

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https://www.whatdotheyknow.com/request/sliggs_craig_inquiry_corresponden#outgoing-648510

council and the relevant school at a time when the latter is building 'new foundations after all the disruption that has recently occurred.'

13. On 9 August 2017 the complainant requested an internal review. He explained the purpose of his request was to establish if there had been any 'cover-up' with regards to how matters relating to the school had been handled.
14. The complainant also advised that he found it to be 'particularly interesting' that the school had provided a similar response to that which had been provided to him by the council. He suggested that this intimated that the council and the school were in close contact with each other.
15. Following an internal review, the council wrote to the complainant on 7 September 2017 to confirm that it maintained its original position.
16. The council also informed the complainant that whilst it noted his comment that the school had also attempted to refuse a request that he had made under section 14(1), it was not the case that it had been involved in the that decision.
17. On 9 September 2017 the complainant sent further correspondence to the council to express his dissatisfaction with the outcome of the internal review. He argued that whilst the council had suggested that the FOI is a means of holding public authorities to account, given the approach it had taken, this had not been possible in this instance.

Scope of the case

18. The complainant contacted the Commissioner on 12 September 2017 to complain about the way his request for information had been handled.
19. The Commissioner's investigation has focussed on whether the council was correct to apply section 14(1) in response to the request.
20. If found to be necessary, the Commissioner has been prepared to then consider the council's application of section 12(1) to the request.

Reasons for decision

Background

21. The complainant has some very specific concerns that relate to matters concerning Simon Langton Girls' Grammar School (the school).

22. The council has provided the following background detail of the circumstances surrounding this case:

SLGGS is a Voluntary Controlled ('VC') School and the council has given delegation of the management of such VC schools to the relevant Governing Body. This delegation means that the Governing Body is responsible for all matters within the school.

In 2015 the Head teacher and the Governing Body of SLGGS decided to consult parents and staff on the potential to convert to Academy status and become part of a Multi-Academy Trust with a neighbouring academy. A parent consultation meeting was held in April 2016 where parents were able to voice their concerns. The school received various complaints from parents who had no confidence in the Head teacher and Governing Body. Subsequently in July 2016, the Chair of Governors Commissioned an independent investigation, by [name redacted], into the various complaints about the school, many of which concerned the now abandoned proposal to become an academy. This investigation is termed the "Craig enquiry." During the investigation the Chair of Governors stepped down and [name redacted] was appointed. Shortly after [name of redacted] forwarded his investigation outcomes to [name redacted], the Head teacher resigned. Since the appointment of [name redacted] as the Executive Head teacher of SLGGS, a new Chair of Governors has been appointed.

Section 14 -vexatious request

23. 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.
24. Whilst the term 'vexatious' is not defined in the FOIA, in the case of the Information Commissioner v Devon CC and Dransfield² the Upper Tribunal commented that the term 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.

² <http://administrativeappeals.decisions.tribunals.gov.uk//Aspx/view.aspx?id=3680>

25. 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.
26. 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).

27. The Commissioner's guidance³ on dealing with vexatious requests sets out a number of indicators that may apply in the case of a vexatious request. 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 judgement as to whether a request is vexatious, including the context of the request and the history of the public authority's relationship with the requester, when this is relevant.
28. In this instance, the Commissioner has considered the views set out by both the council and the complainant in the correspondence they have sent to each other, as well as the representations that they have made directly for her consideration.

The council's representations

29. The council has confirmed that the complainant has made twelve FOIA requests to the council since 2010; between September 2016 and January 2017 he made one FOIA request and one subject access request and then six FOIA requests between January 2017 and July 2017, all of which related to matters linked to the school. The council states that the volume of requests and correspondence received from

³ <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

the complainant has caused an unreasonable burden on council staff and disproportionate drain on what it describes as already overstretched resources.

30. The council has also advised the Commissioner that it is satisfied that it has provided a fully considered response to each of the complainant's previous requests. It advises that whilst it accepts that the complainant is fully entitled to make requests for information, a line must be drawn when he persistently makes request for information about the same, or similar matters. It has gone on to extract elements of two requests to support its argument:

- 5 April 2017: *11. Please advise whether any contracts whatsoever exist, whether they be of a non-disclosure agreement, confidential or any other type or not, which relate (in any way) to the Craig enquiry and its associated Report and whether any such contractual arrangement exists to which Kent County Council, the SLGGS GB [Governing Body] and/or any other 3rd party, is party to?*

12. If the answer to Question 10 is in the affirmative [that any such contract/agreement does exist], please provide a copy of any or all such contract/s and provide details of any financial transactions that relate to it in any way?

- 9 May 2017: *8. Please advise whether any Confidentiality or Non-Disclosure Agreement exists that relates, in any way, to the resignation of the investigation's subject?*

31. With regards to the request dated 5 April 2017, the council responded to advise that the information was not held. In response to the request dated 9 May 2017, the council informed the complainant that it could neither confirm nor deny whether such an agreement existed in relation to any employee, or former employee.

32. The council has then referred to the following element of the complainant's request dated 11 July 2017:

Please further advise whether any member of staff within KCC legal services, or Invicta Law, have drafted any contracts or agreements for any member of staff at SLGGS since January 2017.'

33. The council states that it believes that the request of 11 July 2017 is a revision of the complainant's previous requests and is a further attempt to obtain answers to previous questions (where the complainant was dissatisfied with the response given) via alternative means.

34. The council also refers to the complainant's assertion that he no longer requires a copy of the 'Craig enquiry' report (the report). It suggests, in contrast, that the inclusion of the names of particular individuals (whom the complainant is aware have had access to the report) in the request of 11 July 2017 *'implies that he is trying to access this information through other means.'*
35. The council goes on to say that it considered from the history of its dealings with the complainant that any response provided to him would not be sufficient and that it would be highly probable that he would respond with *'an onslaught'* of further correspondence and requests which would impose a disproportionate burden on the council.
36. The council has referred to those instances where the complainant has responded to initial responses received by return, seeking an internal review and asking further questions. It goes on to say that on receipt of three of the responses it provided, the complainant sought internal reviews and in two instances he responded with a *'barrage of further questions'*.
37. In addition, the council has advised that responding to the additional questions raised by the complainant has placed a significant strain on its resources.
38. The council also states that whilst the tone of the current request was not accusatory in nature, certain other correspondence the complainant has sent relating to previous requests have included aggressive language that an officer would not reasonably be expected to receive. The council goes on to say that it understands that if a complainant is aggrieved by a response they have received, a certain amount of criticism may be levelled personally at officers. However, it states that it will not tolerate the making of unsubstantiated allegations about the council and its officers as it regards this to be unreasonable behaviour which causes harassment and distress to staff.
39. The council has also suggested to the Commissioner that that the number of requests made (not just to the council) in relation to the school and the investigation shows a pattern of behaviour that it describes to be *'a campaign by [the complainant-name redacted] and others to place a disproportionate amount of pressure upon the Council and the school at a time when the school was building new foundations after all the disruption that had recently occurred.'* It goes on to say that this is further substantiated in the responses by some consultees to the school's consultation on the proposal of converting the school to an Academy.

40. The council has advised that at the same time that it received the complainant's requests, both the council and the school were receiving numerous other requests on similar lines. It goes on to say that the Commissioner has already issued four decision notices⁴ (only one of which involved a request to the council) relating to the school and the 'Craig enquiry'.
41. The council also states that, at the time that the complainant submitted his request in July 2017, *'the matter was very much still live'*. It explains that on 7 July 2017, the Board of Governors had circulated a letter⁵ to parents which contained details of recommendations in relation to governance around the school's potential conversion to Academy status. The council also confirmed that many parents and staff had also not received responses to complaints that they had made by that time.
42. The council goes on to say that there is a belief that a campaign of placing disproportionate pressure upon the school and the council is still occurring. It states that it is aware that the complainant and other individuals are using social media to post information and comments; the council claims such individuals are working to deliberately cause the school's management team distress. It goes on to say that some parents have also felt they cannot show their support for the school publicly for fear of being *'hounded'* or *'aggressively or passively attacked'* for expressing such a view.
43. The council has also advised that it is important to note that there are other proposals which are currently being considered in relation to the school, some of which are contentious and have resulted in certain individuals being vocal about their opposition. The council states that certain investment offered for a building project was put into jeopardy

⁴ <https://ico.org.uk/media/action-weve-taken/decision-notices/2018/2173150/fs50688962.pdf>

<https://ico.org.uk/media/action-weve-taken/decision-notices/2017/2172520/fs50658803.pdf>

<https://ico.org.uk/media/action-weve-taken/decision-notices/2017/2172581/fs50684618.pdf>

<https://ico.org.uk/media/action-weve-taken/decision-notices/2017/2172599/fs50669083.pdf>

⁵ http://upload.reactcdn.co.uk/simonlangton/uploads/asset_file/3_637_slggs-actions-letter-july-2017.pdf

as a result of the adverse publicity being placed on social media websites. It states that this would have caused severe detriment to the school and that it had to step in to ensure that the project still went ahead.

44. The council provided the following comment to the Commissioner, both in both this case, and decision notice FS50688962:

it is felt by some responders to a school consultation on the proposal of academy conversion, that there has been an orchestrated campaign of harassment and abuse both directly and through social media towards the Head teacher, the Governing Body and those who supported them in their proposal to become an academy. The council has received relentless FOI and SAR requests in relation to this investigation and its surrounding circumstances from a select number of people including the complainant.

45. The council has also advised the Commissioner that it believes that if, as the complainant suggests, he no longer requires a copy of the 'Craig enquiry' report, then it regards the motive of his request to now be to attain information specifically in relation to the former head teacher's departure from the school.
46. The council goes on to say that it believes that the complainant is using the legislation to '*vent his anger at decisions taken by the Headteacher and Governing Body that lead [sic] to the complaints in the first instance. The Council considers that it is not the purpose of the FOIA to assist complainants in placing undue pressure on a public authority.*'
47. The council states that whilst it accepts that there are some issues concerning the school that have generated '*quite a lot*' of public interest, of the 207 complainants made, there are only a few who have been prolific in their comments and complaints to the council, and to the school, throughout the period January to July 2017. It regards the complainant to fall within this category.
48. The council has also advised that it believes that the complainant's request has no special value. If the information was retrieved, it states it is likely that much, if not all of the information would be exempt from disclosure under section 36-prejudice to the conduct of public affairs, section 40(2)-personal information, section 41-information provided in confidence and section 42-legal professional privilege. It argues that, given this, the response the complainant is likely to receive would not provide any further information to that which is already in the public domain.

49. The council has made specific reference to decision notice FS50688962 (which relates to the same request referred to by the council in its correspondence to the complainant dated 12 July 2017). It states that in that case it decided that, given the passage of time, some of the information that had been originally been withheld could be disclosed. However, the majority of the information that related to communications sent by council staff and members of the Governing Body in respect of the 'Craig enquiry' continued to be withheld under relevant exemptions contained within the FOIA. The council believes that the complainant's request is, at least in part, for similar information, and therefore the outcome of decision notice FS50688962 has some relevance to this case.
50. The council has also advised that whilst it has been explained that the school commissioned the 'Craig enquiry', and therefore it is the latter that is responsible for providing feedback on the outcome of the investigation, many individuals still seem to expect the council to answer questions relating to this issue.
51. The council goes on to say that the head teacher has resigned from the school and a new Executive head teacher is in post. The council states that the complainant has been informed by the council within its responses to his FOIA requests that it is for the school to respond to the complainants, not the council, and it goes on to say that he is not prepared to accept this response.

The complainant's representations

52. The Commissioner notes that the complainant disputes the council's assertion that it has responded '*substantially*' to his previous requests. He suggests, in contrast, that it has attempted to find grounds under the FOIA to withhold information.
53. The complainant also appears to dispute the council's claim that the provision of the requested information would have resulted in an '*onslaught*' of further requests and correspondence from him. In his correspondence to the council of 9 September 2017 the complainant has advised that this would not have been the result but that the '*council may have had to respond to court proceedings depending on the disclosures made.*'
54. The complainant also believes that the council's initial suggestion that the motive behind his request of 11 July 2017 was for a copy of the 'Craig enquiry' report (which he then confirmed he no longer required) indicates that it has not given proper consideration to his request.

55. The complainant has also argued that the council was incorrect to refer to him having made unsubstantiated allegations against the council and its staff. He has advised that any comments he has made are not unfounded and they can all be supported by evidence, if necessary.
56. The complainant has raised concerns about the accuracy of information that the council has provided in response to information requests, and to the Commissioner, inferring that there is a need for greater transparency to ensure that matters have been dealt with properly. For example, the complainant has advised the Commissioner that he has now obtained information which indicates that information that has been provided by the council about the roles of certain council officers in relation to matters concerning the school is inaccurate.
57. The complainant has also advised the Commissioner that certain information that relates to the school and the 'Craig enquiry' is now in the public domain and is '*reasonably common knowledge*'. He suggests that certain actions which have been taken do not comply with the procedures and are therefore '*unlawful*'. He states, however, that whilst certain information is now in the public domain, the council will not answer questions on such matters.
58. The complainant has questioned the council's claim that it has received a number of requests for information from other individuals that are similar to those which he has submitted.
59. The complainant has also referred to decision notice FS50688962, stating that he wholeheartedly agrees with the Commissioner's view that the disclosure of information relating to the 'Craig enquiry' '*would lead to the forced robustness of future investigations, knowing that they will be subject to public scrutiny*'. He goes on to say that he was extremely disappointed that this argument did not seem to have carried sufficient weight in that case.
60. The complainant has argued that the only way to encourage the release of information that should be in the public domain is by making FOIA requests to the council.

The Commissioner's view

61. The ICO guidance says that authorities must be careful to differentiate between cases where the requesters are abusing their information rights to engage in a pattern of disruption, and those instances where the requesters are using the FOIA as a channel to obtain information that will assist their campaign on an underlying issue. It goes on to say that if it is deemed that the requests are genuinely directed at gathering information about an underlying issue, then the authority will only be

able to apply section 14(1) where it can show that the aggregated impact of dealing with the request would cause a disproportionate and unjustified level of disruption, irritation or distress. 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 further that purpose. Where relevant, public authorities will also need to take into account wider factors such as the background and history of the request.

Disproportionate effort

62. The Commissioner has given consideration as to whether the request, or the impact of dealing with the request, is justified and proportionate. When doing so, she has found it helpful to assess the purpose and value of the request.
63. The council has claimed that the number of requests made (not just by the complainant) provide evidence of a 'campaign' to put pressure on the council and the school. The Commissioner believes that there is an important distinction to be made between any 'campaign' organised by certain individuals who oppose the school's proposal to convert to Academy status (and how this was handled) and a 'campaign' of disruption regarded to be an abuse of information rights.
64. The Commissioner accepts that key decisions being made about the school and senior staff are likely to have been of great interest to a large number of parents and other interested parties. However, she notes that the information that was placed in the public domain about such matters appears to have been limited.
65. The Commissioner therefore appreciates that, in these circumstances, the potential for a number of information requests to be made by different individuals at around the same time, and on the same theme, is going to be quite high.
66. In this instance the Commissioner has decided that the evidence provided to date is insufficient to conclude that, with specific regard to the information requests made about matters concerning the school, individuals were acting, as the council suggests, to form a campaign to '*place a disproportionate amount of pressure upon the Council and the school.*' The requests which the Commissioner is aware of indicate genuine effort to try and obtain a greater understanding of the enquiry and its findings.
67. However, in saying the above, she does accept that the campaign led by a number of specific individuals to oppose the proposal by the school

has led to a great deal of comment, sometimes very personal, on social media and that, on occasions, the focus has very much been on specific staff. She also accepts that this may have placed some pressure on the school and also the council.

68. The council also refers to a belief that a campaign to put pressure on the council and the school continues to exist and it has made reference to matters following the complainant's request and its decision to refuse this under section 14(1). However, whilst the Commissioner can consider any evidence the council has presented about the events and correspondence which proceeded or led up to the request being made, she cannot take into account any developments which may have occurred subsequently.
69. The council commented in its internal review response that whilst the FOIA provides citizens with a qualified right to access official information and a means to hold public authorities to account, the '*barrage of requests*' it had received from the complainant in relation to matters concerning the school '*demonstrates obsessive conduct that harasses or distresses staff by making unsubstantiated allegations.*'
70. The Commissioner views the history of communications that have been submitted by the complainant to the council about matters relating to the school to be an important consideration when considering the council's claim as outlined above. These have been summarised as follows:

11 September 2016. The complainant requested the former head teacher's qualifications. The council responded on 20 September 2016 to advise that the information was not held as the school does not use its HR services. It went on to provide the relevant contact details at the school.

20 September 2016. The complainant contacted the council commenting that it was his understanding that the council was the former head teacher's contractual employer. He requested further details relating to previous positions held by the former head teacher and her qualifications. The council responded to confirm that it had carried out a search of its 'human resources system' and 'schools personnel service information system' and confirmed that it does not hold information relating to the former head teacher. It also provided further explanation as to why it does not hold details relating to the former head teacher's school, describing itself to be the 'second employer' with the Governing Body of the school the 'first employer' (with the latter thereby responsible for checking qualifications of staff etc.).

13 October 2016: The complainant requested certain details of what posts the former head teacher had previously held within any Kent County Council schools. The council again confirmed it held no records relating to the former head teacher.

18 October 2016. The complainant contacted the council again expressing his surprise that it did not hold details of all head teachers within the county of Kent, regardless of whether they were Academies.

18 October 2016. The complainant requested certain information held about himself from the council which was dealt with as a request for personal data under section 7 of the Data Protection Act 1998 (DPA).

14 March 2017. The complainant requested a copy of the Craig Report - which was subsequently withheld under section 40(2), 41(1) and 36(2).

5 April 2017. The complainant requested an internal review and included 19 points which he requested that the council provide a response to. The council then confirmed that it would respond to some of these points as part of its internal review. It went on to say that it viewed the remaining points to be a new FOIA request, providing information in response to this on 19 May 2017.

16 April 2017: The complainant made an additional request to the council for '*copies of all correspondence or other communication contact that passed between **any** member of staff at Kent County Council and **any** member of staff at Simon Langton Girls Grammar School (which should include **any** current or former member of the SLGGS Governing Body) in Canterbury from 1st June 2015 onwards to the present day.*' The complainant went on to set out what types of information his request was intended to cover. He also provided a list of 22 individuals whom he believed would be 'potential participants' in relation to the information that he had requested. The council responded to advise that it viewed his request to be too broad and asked him to consider narrowing the time period he had specified that he wished his request to cover.

9 May 2017: The council confirmed the outcome of its internal review in relation to the complainant's request of 5 April 2017. It maintained its previous decision that the Craig Report should be withheld in its entirety.

9 May 2017: The complainant responded to the council stating that '*I reject your findings in their entirety*'. He then provided some comment to explain why he was dissatisfied and asked the council to provide clarification/information on 22 separate points. The council then provided answers to the complainant's additional points on 7 June 2017.

30 June 2017: The complainant requested information relating to contracts that may have been held by two named individuals. The council subsequently provided information in response to the complainant.

30 June 2017: The complainant requested information relating to a further individual who was involved in matters relating to the Craig enquiry. The council subsequently provided information in response to the complainant.

11 July 2017: The complainant made the request currently under consideration.

71. The complainant's previous requests do not seem to have been particularly burdensome in number. However, the content of the requests and additional correspondence from the complainant do appear to suggest that he has not been satisfied with any of the responses that the council has provided to him and this has prompted further requests to be made.
72. The Commissioner appreciates that it may be the case that the complainant has lost some trust and confidence in the council. For example, he suggests to the council itself that it has been involved in a '*colossal cover-up*' in relation to matters concerning the school. He goes on to say that he is '*not prepared to let the local authority that is responsible for our schools, potentially cover-up duplicitous and underhand dealings*' and that '*the provision of this information will demonstrate one way or another the truth.*'
73. The Commissioner is also mindful of the fact that the complainant's lack of trust as to how matters have been dealt with may go some way in explaining the similarity of certain elements of his requests and his persistence, believing that the council is deliberately trying to evade its responsibility to provide certain information he requires.
74. However, she is satisfied that there is no evidence that the council has failed to respond to the complainant's past requests appropriately. She also does not agree with the complainant's claim that the council has previously failed to provide information that he is entitled to receive.
75. The Commissioner is of the view that whilst the council has attempted to respond to the complainant's previous requests and queries, he has, in the main, been dissatisfied with the responses received and this has led to further request and queries. She accepts the council's argument that the content of the complainant's responses suggests that the complainant is unlikely to ever be satisfied with the outcome of any

information provided, and will continue to ask questions to continue to debate in these issues.

76. The Commissioner therefore concludes that the evidence suggests that there is a persistence to the complainant's requests and that this may be considered when determining if responding to the request would constitute disproportionate effort and unjustified level of disruption, irritation or distress. However, this must be considered alongside any value of the request, specifically any public interest there may be in the information.

Purpose and value of the request

77. Although section 14(1) is not subject to a traditional public interest test it was confirmed by the Upper Tribunal in the Dransfield case that it may be appropriate to ask the question:

'Does the request have a value or serious purpose in terms of the objective public interest in the information sought?'

78. In this particular instance the Commissioner understands that there was strong feeling about the proposal to convert the school to Academy status. It would also appear that following the receipt of a significant number of complaints, concerns and grievances relating to the management of the school, the 'Craig enquiry' developed into an investigation into something much wider than it was originally intended. It also led to the resignation of certain senior staff within the school.

79. The Commissioner believes that it is important to consider the wider picture and the events that were occurring around the time that the request was made. Given the high number of complaints that were considered as part of the 'Craig enquiry' it is clear that the public interest is not confined to a small number of individuals. She also notes that it was not just parents who raised concerns about the school, and that staff at the school had also submitted grievances.

80. The Chair of the Board of Governors, in his letter of 7 July 2017, advised of the following:

I also feel it is important that I confirm that the Governing Body commissioned this investigation, not the Local Authority, and, although many complaints were made under the school's complaints policy, it was commissioned on the basis of being an independent investigation of the academisation issues. These increased in number and breadth such that the governors were advised by its HR adviser that it was more appropriate that it became a disciplinary investigation under the schools disciplinary procedure.

81. The Commissioner therefore acknowledges that the matters to which the request relates cannot be viewed to be insignificant or trivial. Indeed, it could be argued that there that there is a strong public interest in support of transparency and accountability in this case.
82. When considering the purpose and value of request under consideration, the Commissioner has also taken into account that the request was made at a time when the council has confirmed that the issue was still 'live'. In addition, the Chair of Governors had only just issued his letter dated 7 July 2017 which detailed some of the recommendations resulting from the 'Craig enquiry'.
83. The Commissioner has also given consideration to the fact that some information regarding the 'Craig enquiry' and its outcome was placed into the public domain (through the press statements, the letter published by the Chair of Governors on 7 July 2017 and FOIA requests). Whilst these all stop short of publishing specific details contained within the report, they do provide a summary of the outcome and the actions which were to be taken by the school as a result of its recommendations.
84. The Chair of Governor's letter of 7 July 2017 confirms that it was the Governing Body that commissioned the investigation and not the council. It also makes it clear that this enquiry was never commissioned as a public enquiry and that it is the Governing Body, and not the council, that is responsible for putting any required actions into place. The letter acknowledges that the '*academisation process was not handled as effectively as it could have been or in accordance with all aspects of best practice guidance*' and refers to the resulting lack of trust and confidence in the leadership and governance of the school at that time. The letter refers to further conclusions that have been reached from the process and set out plans for the future of the school.
85. Given the above, the Commissioner is satisfied that the information that has been provided to parents and interested parties does go some way in meeting the public interest in this case as it does provide some explanation as to the outcome of the 'Craig enquiry' and the recommendations that were to be adopted by the school. In saying this, she also acknowledges that, given the seriousness of the issues at hand, parents with a connection to the school are likely to have felt it to be extremely important that they are provided with a full picture.
86. She notes that the Chair of Governors advised that he was aware that a number of parents and staff would require a more personal response to their complaints and that the necessary arrangements would be made for this to be dealt with. The Commissioner is also aware that by the end of the year few, if any, personal responses had been provided.

87. However, she views it to be of significance that there are a number of options available to individuals who believe that their personal concerns have not been dealt with appropriately by the Board of Governors, including raising their concern with Ofsted, the Teaching Agency and/or the Secretary of State for Education.
88. In addition, the Commissioner notes that whilst the council has been involved in the matters relating to the school and the 'Craig enquiry', it does appear that certain enquiries directed to its office would have been better raised with the school. The Commissioner is also mindful of the fact that it is likely to be the case that the information that the council holds relating to matters concerning the school will be limited. Indeed, that has been shown in the council's responses to the complainant. That being said, where the council does hold information relating to the 'Craig enquiry' it still has a responsibility to properly consider any request made for this.
89. The council has also confirmed that, as far as it is aware, the 'Craig enquiry' report is not in the public domain. The Commissioner notes that information provided by the complainant suggests that he may possibly be aware of information that is not officially publicly available. However, it does not necessarily follow that the council is then obliged to provide this information in response to any FOIA request, or answer the complainant's questions in relation to this.
90. The Commissioner understands that certain individuals may have been hopeful that more details of the 'Craig enquiry' would be made available to the public. Whilst she accepts that had this occurred, it may have provided a greater insight into what happened, this does not necessarily mean that this will justify persistent requests for information relating to the matter.
91. The previous decision notices issued by the Commissioner that also relate to the proposal to convert the school to Academy status (and the subsequent events which followed) go some way in explaining why certain information has been withheld under relevant exemptions contained within the FOIA.
92. Having considered all the information provided by both parties it is finely balanced for the Commissioner to conclude whether there is an additional public interest in any of the information that may result from the request made by the complainant. On the one hand, there could be some value to further openness and transparency in relation to how the school has been managed so there is greater public understanding of any potential failings that may have occurred and how they have been addressed. On the other hand, it seems possible that no new

information will result from these requests which will continue to be on the same theme.

93. The Commissioner has given consideration to the fact that, although the information which is in the public domain is limited in content, it does provide the public with some understanding of the outcome of the enquiry.
94. In addition, both the school and the council have repeatedly stated that it is the former that commissioned the report and is responsible for matters relating to the school, including personnel matters. The Commissioner notes that the council appears to have been in a position where it is expected to provide answers to matters that primarily concern the school where in some instances, it is not able to do so.
95. It is clear that the complainant is not satisfied with the council's response to most, if not all, of his requests, even when information was provided. The council has argued that the complainant will never be satisfied with the outcome of any request that he makes unless he is provided with information that the council believes is likely to be subject to exemptions under the FOIA. Given this, it has argued that very little information would be provided in response to his request and this is unlikely to be of any value to the public at large.
96. The Commissioner can only draw her conclusions based on the fact that the council has already made attempts to provide information to the complainant in previous responses and the complainant has not been satisfied and has then submitted requests for what appears, in part, to be similar to that already made.
97. Whilst the requests themselves have not been particularly burdensome in terms of their number, she still considers that the council has demonstrated that the request and correspondence have shown a persistence and have reached a point where it is no longer reasonable for the council to expand further responses, regardless of how much, on dealing with the requests.
98. The Commissioner would not want to undermine the complainant's desire for further transparency and accountability in relation to what would appear to be serious and controversial matters relating to the school. However, she is mindful that whilst the previous decision notices that have been issued have already considered much of the information that is likely to be held relating to the 'Craig enquiry', the complainant has continued to request information relating to this matter.
99. The Commissioner has given consideration to the findings of the Upper Tribunal in Dransfield that a holistic and broad approach should be taken

in respect of section 14(1). She has decided that the council was correct to find the request vexatious. The Commissioner is satisfied that the request is persistent and the effort in dealing with the request would be disproportionate. The Commissioner therefore finds that section 14(1) has been correctly applied in this case.

Other matters

100. The Commissioner is aware that there are other major proposals that are being considered in relation to the school. These appear to be separate to those matters which have been considered within this decision notice and are also likely to generate a great deal of public interest.

101. The Commissioner would not want the decision made in this case to prohibit future transparency and accountability. She would therefore add that it should not automatically be concluded that all future requests received from the complainant are vexatious. The council must consider whether the request is vexatious or repeated on a case by case basis.

Right of appeal

102. 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

103. 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.

104. 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

Andrew White
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Information Commissioner's Office
Wycliffe House
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Cheshire
SK9 5AF