

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 March 2023

Public Authority: Department for Culture, Media and Sport
Address: 4th Floor
100 Parliament Street
London
SW1A 2BQ

Decision (including any steps ordered)

1. The complainant requested information from the department for Digital Culture, Media and Sport (DCMS)¹ relating to information about 'Laughlines / Laughlines Ltd'. DCMS refused the request under section 14(1) of FOIA (vexatious requests).
2. The Commissioner's decision is that the request was vexatious and therefore DCMS was entitled to rely upon section 14(1) of FOIA to refuse it.

Request and response

3. On 25 February 2021, the complainant made the following request for information to DCMS:

"Please conduct a database and archive search for paper and electronic records for the name 'Laughlines / Laughlines Ltd' and forward all relevant information held under the Freedom of Information Act."
4. On 19 May 2021, DCMS responded and said the request was being refused because it was vexatious under section 14(1) of FOIA.

¹ Following machinery of government changes announced in February 2023, this department is now the Department for Culture, Media & Sport and this decision notice is therefore served on that body.

5. Following an internal review, DCMS wrote to the complainant on 10 August 2021, upholding its position.

Scope of the case

6. The complainant contacted the Commissioner on 12 August 2021 to complain about the way their request for information had been handled.
7. This notice covers whether DCMS correctly determined that the request was vexatious.

Reasons for decision

Section 14(1) – vexatious requests

8. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
9. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s updated guidance on section 14(1)² states, it is established that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
10. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
11. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
12. The emphasis on protecting public authorities’ resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) (“Dransfield”)³. Although the case was subsequently appealed to the

² <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

³ <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.

13. Dransfield established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
14. The four broad themes considered by the Upper Tribunal in Dransfield were:
 - the burden (on the public authority and its staff);
 - the motive (of the requester);
 - the value or serious purpose (of the request); and
 - any harassment or distress (of and to staff).
15. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. They stated:

“all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA” (paragraph 82).
16. In their response DCMS have said the complainant has sent 23 emails to the department between September 2020 and the date of the request. These emails relate to a complaint against third party organisations about a product the complainant has created.
17. In its submissions to the Commissioner and its responses to the complainant DCMS has highlighted that the complainant has made several complaints about a third party organisation which have not been related to FOI. DCMS has provided outcomes to those complaints and has also signposted the complainant to the complaints appeal process.
18. DCMS has also provided four formal Freedom of Information responses.
19. In one of the complaint responses DCMS advised the complainant that they had provided them with all the information it could in this matter and that additional correspondence on this matter would be logged but may not receive a response.
20. In further support of the view this request is vexatious DCMS have advised the complainant that they have reason to believe they have liaised with another individual who has made several very similar FOI requests via the Whatdotheyknow website.

21. DCMS has considered whether there is any public interest in the release of the information that falls within scope and have determined that the held information relates solely to the department's internal engagement on Laughlines and how to appropriately respond to and handle the complainant's correspondence.
22. It determined that there is no wider public interest in this information therefore could only consider the department's obligation towards transparency of a government department when considering the release of the information.
23. In support of this DCMS said the release of information may impact the department's ability to discuss with candour the handling of correspondence from the public and organisations on a range of issues and therefore would have to consider if any other exemptions were engaged.
24. DCMS argue that this causes further burden and adds weight to the engagement of section 14(1).
25. The complainant argues that the same request has been made to other organisations who have provided information. No evidence has been provided to the Commissioner to support this.

The Commissioner's decision

26. In cases where a public authority is relying on section 14(1), it is for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.
27. Whilst the Commissioner does not necessarily consider that complying with the request itself would place a significant burden on DCMS he recognises that the aggregated burden of dealing with the complainant's overall correspondence would place an additional burden on DCMS and its limited resources over a matter which has already been through its three-stage complaint process. The Commissioner is also satisfied that this request can be seen as evidence of attempting to re-open an issue that has already been comprehensively dealt with. And considers such behaviour, ie unreasonable persistence, to be an indicator of a vexatious request.
28. The Commissioner is also of the opinion that should the complainant be provided with the held information it could potentially lead to further complaints and further FOI requests resulting in more correspondence and further burden.

29. Additionally, given that DCMS have engaged in correspondence and provided several responses to requests for information and complaint outcomes the Commissioner is of the opinion that DCMS have provided all the information it can to the complainant and fulfilling this request is unlikely to provide any further benefit to the complainant.
30. Moreover, the Commissioner accepts the Council's argument that there is no wider public interest in the information.
31. The Commissioner believes that the request was vexatious and therefore DCMS was entitled to rely on section 14(1) of FOIA to refuse the request.

Right of appeal

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: 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

Jonathan Slee
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF