

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 August 2023

Public Authority: Parliamentary and Health Service Ombudsman
Address: Millbank Tower
30 Millbank
London
SW1P 4QP

Decision (including any steps ordered)

1. The complainant has requested information about a complaints process. The above public authority ("the public authority") refused the request as vexatious.
2. The Commissioner's decision is that the public authority was entitled to refuse the request as vexatious.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 31 March 2023, the complainant wrote to the public authority and requested information in the following terms:

"In relation to published: PHSO "Guideline on Financial Remedy" and PHSO "Typology of Injustice", I am unable to find fitting procedure whereby a victim may make a complaint invoking and claiming any of the "injustices" as identified. My FOI is therefore:

"Please can you identify the procedure for making serious complaints of harm in such injustices, where materially caused by the PHSO to complainants where, in instance:

- there has been offensive activity by the PHSO in any verbal or written derogatory response e.g. abuse in derision, accusatory of honesty or even of mocking the complainant's efforts.
- there has been illegal activity against Government principles or reasonable expectations e.g. a lack of candour, use of un-researched, unsubstantiated, unreliable, covered-up, or knowingly false information evidentially not proven fact as thus assumed by PHSO.
- where the PHSO has been the source of a such disability requiring treatment or having long term effects affecting normal expectation of normal even good health and life activity.
- there has been a failure by the PHSO to take into regard the original or a worsening disability, as required to be taken by UK law, including the disabling mental effect of such PHSO interactions over a course of time, on a person knowingly the victim a preexisting situation e.g. death of a family member.

"AND, in particular, where complainant effort has offered evidence of harm, has requested consideration of the PHSO in the opportunity to account for all such activities, yet the PHSO has declined i.e. refused, to do so.

"Background: previously I note that in previous requests under FOI, responses have been:

'making an approach to PACAC' then specifically ruled out by that government body.

'make approach to PHSO worker or worker's manager' then been seen to be ineffective or impractical; similarly not responded-to by outright rejection, derision, zero response, or 'person no longer available'; and, usually it has nothing to do with with [sic] the original case of injustice brought to the PHSO."

5. The public authority responded on 31 March 2023. It refused the request as vexatious – a stance it upheld following an internal review.

Reasons for decision

6. Section 14(1) of FOIA allows a public authority to refuse requests that are vexatious. A vexatious request is one that is without reasonable foundation, or that is an inappropriate or unjustified use of the legislation. A public authority is entitled to take into account, not just the wording of the request itself, but the context in which the request

has been submitted – including its broader history of interactions with the requester.

7. The complainant has drawn attention to a number of requests that he has made to the public authority via a particular website and which he considers were not properly responded to.
8. It is clear from the website that the complainant has made a large number of requests – although these do cover a period of ten years and have been made to several public authorities.
9. The complainant has explained that he had previously made a complaint to the public authority which, in his view, was not brought to a satisfactory conclusion.
10. Most of the complainant's other requests to the public authority carry these themes of dissatisfaction with its work and options for escalating the complaint.
11. It is not the Commissioner's role to determine whether the public authority handled the original complaint properly. His role is to determine whether dealing with this particular request would be likely to bring the underlying matter closer to a conclusion.
12. The Commissioner notes that the request has been couched in pejorative language in that it accuses the public authority of having caused mental health problems.
13. The Commissioner also notes that, in the final part of the request, the complainant indicates that he is already aware of the avenues by which complaints can be escalated, but finds them inadequate for his purposes. Whether the complainant believes such processes are or are not adequate is a matter for him. It is difficult for the Commissioner to see why the public authority would be likely to hold any further information in recorded form, beyond that which the complainant is already familiar with.
14. FOIA is a means for accessing recorded information held by public authorities. It is not a means of further ventilating any sense of dissatisfaction with, or continuing to argue with, a public authority.
15. The complainant is pursuing a personal grievance with the public authority. The Commissioner understands why that grievance (whether well founded or not) is so important to the complainant. However, he is of the view that requiring the public authority to respond to this request will not shed any further light on the underlying grievance, nor push matters any further towards a resolution.

16. The Commissioner is therefore of the view that this particular request lacked a serious purpose and was thus an inappropriate and unjustified use of FOIA. The fact that so much time appears to have elapsed since the original complaint was submitted to the public authority further undermines any public value in responding to the request.
17. The Commissioner therefore considers that the request was vexatious and thus the public authority entitled to rely on section 14(1) of FOIA to refuse it.

Right of appeal

18. 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

19. 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.
20. 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

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