

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 November 2023

Public Authority: Council of the University of Sussex
Address: Sussex House
Falmer
Brighton
BN1 9RH

Decision (including any steps ordered)

1. The complainant has requested information about internally funded PhD support. The University of Sussex ('the University') refused to comply with the request, citing section 14(1) (vexatious requests) of FOIA as its basis for doing so.
2. The Commissioner's decision is that the University was entitled to rely on section 14(1) of FOIA to refuse to comply with the request.
3. The Commissioner does not require the University to take any further steps on this matter.

Request and response

4. On 19 May 2023, the complainant wrote to the University and requested information in the following terms:

"The university policy and guidelines relating to whether a new PI should or should [not] be given such support [internally funded PhD support] and how such decisions are taken and the rules applied to refusal of such support.

The number of refusals for PhD support in Life Sciences (biochemistry) for new PIs in the last 5 years.”

5. The University responded on 19 June 2023. It refused to comply with the request, citing section 14(1) of FOIA as its basis for doing so.
6. Following an internal review the University wrote to the complainant on 17 July 2023. It maintained reliance on section 14(1).

Reasons for decision

Section 14(1) – vexatious requests

7. 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.
8. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s updated guidance on section 14(1)¹ 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.
9. 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.
10. However, the Commissioner 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.
11. 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”)². Although the case was subsequently appealed to the

¹ <https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/section-14-dealing-with-vexatious-requests/>

² <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.

12. 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.
13. 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).
14. 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).
15. When determining if a request is vexatious, a public authority can consider the context of the request and the history of its relationship with the requester, as the Commissioner's guidance explains: “The context and history is often a major factor in determining whether the request is vexatious and may support the view that section 14(1) applies”.
16. In this case, for context, the University started by explaining that 'PI' means the Principal Investigator for a research project and usually means the person in charge of a research grant. The request for information relates to whether new PIs should be given a PhD student, funded by the School of Life Sciences, to support them on a research project.
17. The University outlined that when considering the application of section 14(1) it had focused on the themes of burden, the motive of the requester and the value or serious purpose of the request.
18. In order to demonstrate the burden which has been placed upon it, the University provided the Commissioner with a detailed history of the numerous FOIA requests and Subject Access Requests which the complainant has submitted over more than a two year period. The

University outlined that it considered that all of the requests shared a common theme, namely seeking data or information relating to an ongoing grievance which the complainant has with the University. The University explained that it had taken into account the number, pattern and duration of the requests whilst considering the theme of burden.

19. The University stated that the volume of requests and complaints which it has dealt with over a prolonged period of time has placed a significant burden on the University, in terms of staff time and cost. The cumulative effect of the requests – in particular, the frequency and overlapping nature of the requests – has been impactful particularly on staff within the Information Management team, the Human Resources team, and the School of Life Sciences. A very significant amount of time has been spent on dealing with those requests.
20. In addition to the burden which has already been placed upon it, the University considers that the duration, pattern and nature of the complainant's previous requests indicates that it is highly unlikely that the FOIA process would resolve their issues with the University. Therefore, it is reasonable to surmise that the complainant will persist unreasonably in making further related requests for information, which will continue to place further burden on the University going forward.
21. With regard to the theme of motive, the University explained that the complainant has been very open in stating that their requests are made with the intention of seeking information to support their ongoing personal grievance against the University. The complainant's grievance has been thoroughly investigated by the University under its published grievance process, and disclosure of relevant information has also been made under that process. The University stated that the complainant remains unhappy with the outcome of the investigation into their grievance, and the subsequent appeal, and therefore it considers that they are seeking to utilise FOIA to further their case - an improper use of the legislation.
22. The University confirmed that it had carefully considered whether there is a wider public interest in the requested information. It acknowledged that whilst matters of private interest may also carry a wider public interest, it had judged that not to be the case with the particular information being sought by this request. The University is of the opinion that the interest in the requested information is very narrow and personal in nature. It therefore asserted that the burden to the University of complying with the request is not outweighed by any significant public interest considerations.
23. The University also highlighted that the complainant has been provided with a significant amount of information in response to their previous

FOIA requests, Subject Access Requests and under the Grievance procedure, as well as having their complaints fully considered under the relevant procedures. The University reached the conclusion that it is unclear what value complying with this request would add, therefore the value and purpose of the request is not sufficient to justify the burden and impact on the University.

The Commissioner's decision

24. 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.
25. As detailed in the Commissioner's guidance, there are many reasons why a request for information can be considered to be vexatious. There are no prescriptive "rules", although there are generally typical characteristics and circumstances which assist in making a judgement about whether a request is vexatious.
26. The Commissioner's guidance emphasises that proportionality is a key consideration for a public authority when deciding whether to refuse a request as vexatious. The public authority must essentially consider whether the value of a request outweighs the impact that the request would have on the public authority's resources in responding to it. Ultimately, section 14 of FOIA is designed to protect public authorities from having to respond to requests which would cause a disproportionate burden or unjustified level of disruption or distress.
27. In their complaint to the Commissioner about this matter, the complainant set out their arguments as to why they disagree with the University's assertion that the request was vexatious. As those arguments were primarily personal in nature the Commissioner has not repeated them in this notice in order to protect the complainant's identity. However, in reaching his conclusion on this complaint, the Commissioner has considered all arguments put forward by both the University and the complainant.
28. Whilst the Commissioner sympathises with the personal concerns from which the complainant's continued requests stem, FOIA is not a means of recourse when the appropriate avenues for raising such concerns have been exhausted, and have failed to provide the complainant with the outcome they are seeking.
29. The Commissioner considers it highly unlikely that compliance with the request will deliver any information of value that is likely to satisfy the

intentions of the complainant in this case. Nor does he find that complying would satisfy any objective public interest.

30. It is evident to the Commissioner that the complainant's previous correspondence, complaints and requests relating to their ongoing concerns have already placed a notable burden upon the University's resources. Based on the evidence provided to him, which demonstrates a clear and persistent pattern of overlapping and related requests, the Commissioner finds that it is highly likely that compliance with the current request will generate further related requests or correspondence. This would place a further burden on the resources of the University, and require further public resources to be expended.
31. The Commissioner is satisfied that the University has clearly demonstrated that the request was vexatious and, therefore, it 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

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