

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 January 2024

Public Authority: The Governing Body of Pembroke College,
University of Cambridge

Address: Trumpington Street
Cambridge CB2 1RF

Decision (including any steps ordered)

1. The Commissioner's decision is that the complainant's request for information about the Shahnama Centre is a vexatious request under section 14(1) of FOIA. Pembroke College isn't obliged to comply with the request and no corrective steps are necessary.

Request and response

2. The complainant made the following information request to Pembroke College ('the College') on 4 July 2023:

"1. Please provide information about the recruitment procedures for selection of staff at the Pembroke College and at the Shahnameh Centre based at Pembroke College. Under the United Kingdom's rules and regulations all educational establishments, including centres operating under the University of Cambridge, would have to abide by the national equal opportunity rules and regulations. According to these rules and regulations all the institutions would have to have in place procedures which would ensure equal opportunity in relation to the recruitment of staff and various kinds of researchers affiliated with them

2. Please provide a copy of these procedures with the dates as to when they were put in place. This information should include on how Pembroke College has satisfied its obligations under the equal opportunity laws and Human Rights Act of the United Kingdom to make sure that Pembroke college and the Shahnameh Centre would be recruiting members of staff according to these important national laws of the United Kingdom.

Please note that the staff that have been benefiting from various grants from various outside funding organisations and individuals, would be obtaining experience and benefit from research experience and record of publications at Pembroke College, and then apply for various academic posts within the University of Cambridge's other departments based on those experience and or record of publications obtained at Pembroke College Shahnameh Centre. In the absence of a proper recruitment procedure, the staff of Shahnameh Centre would be able to obtain posts or being put in an advantage position over those individuals, who have not had an opportunity to obtain work experience and record of publications at Pembroke College because there was not a proper recruitment procedure in place at Pembroke College in the first place. This practice would be in violation of rules and regulations set in place at national level to prevent such corrupt practices.

Therefore, it would be important for Pembroke College to outline the manner in which it has made sure that the recruitment practices of the Shahnameh Centre would abide by the national rules and regulations of equal opportunity and Human Rights Act. How would Pembroke College would make sure the staff of the Shahnameh Centre (who have not been recruited based on equal opportunity rules and regulations) do not obtain work experience and record of publications and research work and present such experiences to the other Departments of University of Cambridge or other institutions outside the University of Cambridge to obtain academic jobs which would be advertised based on equal opportunity and Human Rights Act of the United Kingdom.

3. it is clear that not all the funding institutions or individuals who have provided funding to the Shahnameh Centre have done so on confidential basis. There are many grant making institutions and individuals who would be providing grants and funding to the Shahnameh Centre on the basis of the assumption that the Pembroke College would already have in place rules and regulations compatible with the national equal opportunity and Human Rights Act of the United Kingdom. In my expert opinion, if many of the institutions have been aware that Pembroke College Shahnameh Centre has not had in place proper procedures compatible with the equal opportunity and Human Rights Act of the United Kingdom, these funding

individuals and grant making institutions would not have provided funds to the Pembroke College Shahnameh Centre in the first place. This is another important reason for you to provide response to my questions and provide information in relation to both procedures of recruitment at the Shahnameh Centre as well as the sources of finance to find out how compatible have been the operation of the Shahnameh Centre at Pembroke College with the equal opportunity and Human Rights Act of the United Kingdom. This is clearly a matter of public interest in relation to an educational centre which has been using the name and reputation of the University of Cambridge and Pembroke College as an educational establishment to benefit from substantial amount of public funds over many years. You should provide this information under the Freedom of Information Act 2000.”

3. The College responded on 1 August 2023. It relied on section 14 to refuse the request.
4. Provision of an internal review isn't a requirement of FOIA and on this occasion the College didn't offer to carry out an internal review if the complainant was dissatisfied.

Reasons for decision

5. This reasoning is focussed on whether the College is entitled to rely on section 14 of FOIA to refuse the complainant's request. The College has confirmed that it considers that both section 14(1) and section 14(2) are engaged.

Section 14 – vexatious and repeated requests

6. Under section 14(1) of FOIA a public authority isn't obliged to comply with a request for information if the request is vexatious.
7. Under section 14(2), where a public authority has previously complied with a request for information that an applicant's made, it's not obliged to comply with a subsequent identical or substantially similar request from that applicant unless a reasonable interval has elapsed between compliance with the previous and current request.
8. In its submission to the Commissioner, the College has indicated that its correspondence with the complainant goes back to 4 January 2023, and it's provided the Commissioner with a copy of that correspondence. The College has also provided the Commissioner with additional background information about the request which he doesn't intend to reproduce in this notice.

9. In respect of section 14(2), the College has explained that it considers it's convenient to begin the justification of its position with this exemption. That's because, it says, a request for information which is substantially identical to one that has already been made is much more likely to be regarded as vexatious under section 14(1) than one that isn't substantially identical.
10. The College's view is that the complainant's request of 4 July 2023 added nothing – in terms of hard information that it was seeking – to their earlier request of 4 January 2023. Points 1 and 2 of the 4 July 2023 request are essentially requests for information on recruitment procedures for the Shahnama Centre, which was the subject of the request for information of 4 January 2023.
11. The College says that it's not clear that point 3 of the current request actually contains a request for information; but that insofar as it requests information about the funders of the Shahnama Centre, that was also covered in their 4 January 2023 request.
12. The College has noted that the complainant didn't complain to the Commissioner following its internal review of its response to the earlier request (in which the College had relied on section 43 to refuse the request, which concerns commercial interests). Instead, their request of 4 July 2023 essentially asks the same questions as they'd asked on 4 January 2023.
13. In respect of section 14(1), vexatiousness involves considering whether a request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
14. To analyse vexatiousness, the Commissioner considers four broad themes that the Upper Tribunal (UT) developed in **Information Commissioner vs Devon County Council & Dransfield [2012] UKUT 440 (ACC)**:
 - Value or serious purpose
 - Motive
 - Burden; and
 - Harassment to staff
15. The Commissioner first looks at the value of the request as this is main point in favour of the request not being vexatious. He then looks at the negative impacts of the request ie the three remaining themes of burden, motive and harassment, before balancing the value of the request against those negative impacts.
16. In its submission, the College has discussed different features of the complainant's request that, taken together in a holistic fashion, justify

its conclusion that the request was 'likely to cause a disproportionate or unjustified level of disruption, irritation or distress.'

17. First, the College says that its correspondence with the complainant since 4 January 2023 should make it clear just how disruptive, irritating and distressing dealing with the complainant's requests have been: the amount of staff time that has been devoted this year to dealing with their requests alone (and in particular requests for internal reviews, made almost immediately after receiving a response to their request) has been hugely disproportionate.
18. The College says that the time spent is disproportionate: (i) to the time spent on other freedom of information requests; (ii) to the time it has available to perform its other, multiple and manifold functions as an educational institution; and (iii) its ability to help the complainant obtain the information that they seek - let alone the request's value either to the complainant or the public at large.
19. Second, the Dransfield decision makes it clear that in judging whether the complainant's request is likely to cause a 'disproportionate or unjustified level of disruption, irritation or distress' the 'future burden' that will fall on the College of acting on the complainant's request 'must be considered'. The College considers that the remarks of the Upper Tribunal in the Dransfield case on this issue are particularly apposite here:

'The history of the previous course of dealings demonstrates a high likelihood that, if the public authority had responded in a normal way to the request of 29 May 2010, it would have faced a barrage of further correspondence and requests. These would have placed a quite unreasonable burden on the public authority's staff and represented a wholly disproportionate drain on their resources.'
20. The College considers that those words precisely apply here.
21. Third, the Dransfield decision makes clear that the requestor's motive is highly relevant to determining whether their request is 'unjustified' in a way that (combined with its being likely to cause 'disruption, irritation or distress') may well result in its being regarded as 'vexatious'. The additional background information that the College has provided would, in the College's view, allow any reasonable person to discern 'with a sufficient degree of assurance' that the complainant has no good motive for the freedom of information requests that they have been targeting at Pembroke College.
22. It appears to the College that the complainant has an abiding sense of having been cheated out of credit, promotions and distinctions by scholars working in the field of Asian and Middle Eastern Studies, which has caused them to accuse various such scholars of plagiarising their

work and refusing to give them the recognition to which they think they is entitled. This, the College thinks it's abundantly fair to say, is the real reason for the complainant's interest in recruitment procedures at the Shahnama Centre and the sources of its funding. The College considers that the complainant has dressed this interest up as "a high-minded concern for transparency and fairness." The College considers that the Dransfield decision is precisely on point here, when it says: 'Such behaviour shows all the hallmarks...of an obsessive and unreasonable campaign lacking in any serious purpose'.

23. The College concludes by noting that the Dransfield decision observed that section 14(1) of FOIA 'allows the public authority to say in terms that "Enough is enough – the nature of this request is vexatious so that section 1 does not apply".' The College considers that it was justified in saying 'Enough is enough' when it received the complainant's request on 4 July 2023. Simply reiterating its response to the 4 January 2023 request would have added nothing of value to the stock of publicly available information. It would also have just encouraged the complainant to use FOIA to make the College spend yet more hours on dealing with their issues and concerns when it has so much else to do as an educational institution.

The Commissioner's conclusion

24. Regarding the College's reliance on section 14(2), this exemption can only apply when the public authority has "previously complied with" a substantially similar request. "Complied with" means here complied with section 1(1) of FOIA; that is either previously communicated the requested information or confirmed it doesn't hold the information.
25. In this case, the 4 January 2023 request and the current request **are** substantially similar. However, the College refused the previous request under section 43(2) of FOIA. It didn't "comply with" that request and, as such, section 14(2) can't apply.
26. The Commissioner has gone on to consider the College's application of section 14(1) and has balanced the value of the request against the negative impacts of complying with it.
27. The College carried out an internal review of its response to the 4 January 2023 request, which it sent to the complainant on 12 April 2023. In its review the College advised the complainant that they could submit a complaint to the Commissioner if they remained dissatisfied. The complainant didn't do so but continued writing to the College, which culminated in their request of 4 July 2023.
28. In terms of value, the complainant had requested the information previously and had accepted the College's response to that request. In the Commissioner's view, someone whose priority was receiving the

information they'd requested would have submitted a complaint to the Commissioner following the internal review rather than continue to correspond with the public authority and submit essentially the same request a second time. This would suggest that the request didn't have sufficient value to the complainant for them to appeal to the Commissioner about the College's response to it. In turn, the request is of even less value to the wider public.

29. The College's submission to the Commissioner indicates that it has been corresponding with the complainant since 4 January 2023. However, in terms of negative impacts that complying with the request would cause, the College's submission, together with the supporting information it provided, presents a persuasive case that the request displays many of the features discussed in the Dransfield decision. First given the low value of the request, the burden associated with complying with the current request is disproportionate to the request's value. The likelihood that further requests on the same subject would follow would continue that burden. Second, complying with this request and any future requests would cause harassment to College staff due to the request's lack of value and the motive behind the request. Because third, the motive behind the request appears to be to pursue a personal campaign and to harass the College rather than being a genuine request for recorded information.
30. The Commissioner has considered all the circumstances and he's satisfied that the negative impacts of complying with the request outweigh the negligible value that the request has. He's satisfied that the request is a vexatious request and that section 14(1) of FOIA is therefore engaged.

Right of appeal

31. 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

32. 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.
33. 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
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