Freedom of Information Act 2000 (FOIA)

Decision notice

Date: **11 November 2019**

Public Authority: **The Axholme Academy**
Address: **Wharfe Road**
Crowle
Scunthorpe
DN17 4HU

Decision (including any steps ordered)

1. The complainant has requested information from The Axholme Academy ('the Academy') associated with its minibuses. He is dissatisfied because the Academy has categorised his request as vexatious under section 14(1) of the FOIA and has refused to comply with it.

2. The Commissioner's decision is as follows:

    - The complainant's request is vexatious and the Academy is not obliged to comply with it.

3. The Commissioner does not require the Academy to take any remedial steps.

Request and response

4. On 2 April 2019 the complainant wrote to the Academy and requested information in the following terms:

    "1 How many of your minibuses are over 9 passanger seats.
    2 How much does each pupil pay toward your transport
    3 you are supposed to be an accademy why are you taking advice from northlincs council What is the connection between your school and northlincs council.

4 why is your minibuses running all over on a satarday night at midnight..."

5. The Academy responded on 9 April 2019. It refused to comply with the request which it stated was vexatious under section 14(1) of the FOIA.

6. Following an internal review the Academy wrote to the complainant on 9 May 2019. It maintained its original position that the request is vexatious under section 14(1) of the FOIA.

Scope of the case

7. The complainant contacted the Commissioner on 28 May 2019 to complain about the way his request for information had been handled.

8. The Commissioner's investigation has focussed on whether the complainant's request is a vexatious request under section 14(1).

Reasons for decision

Section 14 – vexatious and repeat requests

9. Under section 14(1) of the FOIA a public authority is not obliged to comply with a request if the request is vexatious.

10. The term 'vexatious' is not defined in the FOIA but the Commissioner has identified a number of 'indicators' which may be useful in identifying vexatious requests. These are set out in her published guidance and, in short, they include:

- Abusive or aggressive language
- Burden on the authority – the guidance allows for public authorities to claim redaction as part of the burden
- Personal grudges
- Unreasonable persistence
- Unfounded accusations
- Intransigence
- Frequent or overlapping requests
- Deliberate intention to cause annoyance

11. 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 a case will need to be considered in reaching a judgement as to whether a request is vexatious.

12. The Commissioner's guidance goes on to suggest that, if a request is not patently vexatious, the key question the public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. In doing this the Commissioner considers that a public authority should weigh the impact of the request on it and balance this against the purpose and value of the request.

13. Where relevant, public authorities also need to take into account wider factors such as the background and history of the request.

14. In its submission to the Commissioner the Academy has provided a background to the request, which the Commissioner does not intend to reproduce in detail here. This is in order to give some protection to the complainant's identity, although she notes that he is active on social media sites about the issue that is the subject of his request. In summary, the complainant does not agree with how the Academy uses its minibuses. The Academy says that over the last two years, approximately, the complainant has been active on social media, trying to change legislation covering the taxi/minibus hire industry. The Academy says he has "slandered" it on social media and has approached its staff members and parents to ask them questions about the Academy's transport.

15. The complainant had submitted an earlier request about the Academy's minibuses on 4 March 2019 to which the Academy had responded on 28 March 2019. It provided a further response to that request on 29 March 2019.

16. The Academy says that the current request, submitted on 2 April 2019, raised a particular question/statement at part 4. The Academy says that the complainant had "already previously" publicly commented on a social media site under a Local Community Policing Team post about a car driving with no insurance. The Academy has provided the Commissioner with the date and the text of this comment and it is negative about the Academy, accusing it of carrying out "taxi runs" with no insurance, driving a 17 seat vehicle on a car licence, making money from its minibuses and generally using its minibuses illegally.

17. The Commissioner makes the observation that the Academy has indicated that the complainant posted this social media comment on a particular date that is after the date of his request. From the material the Academy has provided to the Commissioner it does not appear to her that the complainant had "previously" publicly raised the matter regarding part 4 of his request – since the comment the Academy has brought to the Commissioner's attention was posted *after* the date of the request. However, the Commissioner notes that the Academy has said that the complainant had been posting on social media about the

taxi/minibus hire industry, including 'slandering' in the Academy, over a period of approximately two years at the point of the request.

18. In its submission the Academy has gone on to say that the complainant posted other comments about the Academy under the Local Community Policing Team on a social media site and that the police had advised him to go to the public authority - ie the Academy - directly if he had issues with it.

19. The Academy says that on 25 April 2019 it received a complaint from a member of the public. The Academy has provided the Commissioner with details of this complaint, which she does not intend to reproduce here.

20. The Academy had reported this incident to the local police and it has provided the Commissioner with details of the result of its report to the police. The police had advised the complainant's employer that if not only the Academy but the local authority and other schools and businesses up and down the country were contravening transport regulations, then this was something that required considerable higher level legal intervention. It did not really require a persistent social media barrage that the Academy was receiving, with the possible damaging effect this could have locally.

21. The police advised the Academy that the complainant's employer had confirmed that the complainant had been responsible for this and agreed that defaming the Academy and photographing its staff should stop.

22. The Academy has told the Commissioner that on 22 June 2019, a further incident took place that involved an individual associated with the School. Again, the Academy has provided the Commissioner with details of this complaint but she does not intend to reproduce here. This incident resulted in the individual being made to feel anxious and intimidated.

23. The Academy says it reported this incident to the police. As a result, the police advised the complainant's employer that they should advise the complainant appropriately again, as his actions could be construed as traffic and/or harassment offences if they continued in the future.

Conclusion

24. Although she has noted the incident on 22 June 2019, the Commissioner's focus must be on the situation as it was at the time of the request. It appears to the Commissioner that the request is one element of a campaign the complainant is waging against the Academy, concerning the use of its own minibuses. This campaign was ongoing at the point of the request, having been active for approximately two

years. In the period between the Academy's response to the request and its internal review, the complainant had approached a member of the public, as has been discussed. This had resulted in the police contacting the complainant's employer and the employer acknowledging that the complainant should desist from harassing the Academy.

25. The Commissioner agrees with the police that if the complainant considers there is a national problem with organisations contravening transport regulations then this needs intervention at a higher level. Harassing one local Academy, that as far as the Commissioner is aware is legitimately using its own minibuses for legitimate purposes, will not solve that problem, if indeed the problem exists. The request would therefore appear to have no value or purpose – for the complainant, or anybody else.

26. From the information the Academy has provided to her, it seems that the complainant had only submitted one, previous request for information to it. In such cases the Commissioner would not normally take this as an indication that an applicant is misusing the FOIA. However the current request sits within the context of the complainant's wider campaign against the Academy, which is of a somewhat threatening nature and has involved the police. The Commissioner has therefore decided that the complainant's request of 2 April 2019 can be categorised as being part of that campaign and, as such, is a vexatious request. In the Commissioner's view the request is not a genuine attempt to garner information from the Academy; the evidence suggests that the complainant is using the FOIA legislation to harass the Academy through another route. The Academy is therefore not obliged to comply with this request.

Right of appeal

27. 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@justice.gov.uk
    Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

28. 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.

29. 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

Pamela Clements
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