

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 March 2014

Public Authority: Information Commissioner's Office (ICO)

Address: Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Decision (including any steps ordered)

1. The complainant has requested a copy of a court order relating to a High Court of Justice judgement on a specific date. The ICO stated it did hold a copy of the court order but refused to provide the information as it considered the request to be vexatious under section 14(1) of the FOIA.
2. The Commissioner's decision is that the ICO has correctly applied section 14(1) to this request and he requires no further steps to be taken.

Request and response

3. On 26 September 2013, the complainant wrote to the ICO requesting the following information relating to a High Court of Justice judgement of 20 August 2013:

"We request that you should provide us with a copy of the Court Order."

4. The ICO responded on 23 October 2013. It stated that it did hold a copy of the court order (dated 11 September) which related to the judgement made on 20 August but it considered the request vexatious and it was

therefore being refused on the basis of section 14(1) of the FOIA. The ICO's main reasoning for this was a previous decision notice¹ in which a request for copies of previous court orders had been upheld as being vexatious.

5. Following an internal review the ICO wrote to the complainant on 14 November 2013. It stated that it upheld its decision to refuse the request as vexatious.

Scope of the case

6. The complainant contacted the Commissioner on 14 November 2013 to complain about the way his request for information had been handled.
7. The Commissioner considers the scope of his investigation to be to determine if the request for information was vexatious and therefore correctly refused on the basis of section 14(1) of the FOIA.

Reasons for decision

8. Section 14 of the FOIA provides that a public authority is not obliged to comply with an information request that is vexatious. Guidance on vexatious requests provided by the Upper Tribunal in *Information Commissioner and Devon County Council v Alan Dransfield*² places emphasis on the importance of adopting a holistic approach to determining of whether or not a request is vexatious.
9. The Upper Tribunal's judgement proposed four broad issues that public authorities should bear in mind when considering whether FOI request are vexatious: (i) the burden of meeting the request; (ii) the motive of the requester; (iii) the value or serious purpose of requests; and (iv) any harassment or distress caused. The judgement concurred with an earlier First Tier Tribunal decision in *Lee v IC and King's College Cambridge*³ that vexation implies an unjustified, inappropriate or improper use of a formal procedure.

¹ ICO case reference FS50471842

² <http://www.osspsc.gov.uk/Aspx/view.aspx?id=3680>

³ EA/2012/0015, 0049 and 0085

10. The judgement noted that the four broad issues are "*not intended to be exhaustive, nor are they meant to create an alternative formulaic checklist.*" It stated the importance of remembering that Parliament has expressly declined to define the term 'vexatious'. Consequently, the four broad issues, "*should not be taken as imposing any prescriptive and all-encompassing definition upon an inherently flexible concept which can take many different forms.*"
11. The Commissioner's guidance on the application of section 14(1)⁴ indicates that the key question for a public authority is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. The public authority should take into account the background and history of the request where this is relevant.

Burden of meeting the requests, obsessive nature of the requests and the value or serious purpose of the requests

12. The Commissioner understands from the ICO that the complainant has made a number of requests for very similar information in very similar terms. The ICO has pointed out that the request in this case was contained within a lengthy email referring to various courts and tribunals.
13. The ICO has explained that it receives frequent correspondence from the complainant, much of which does not contain requests for information but is all of a similar nature to the email sent in this case which contained the request for information. The ICO has stated that approximately 200 emails have been received since January 2013, 74 of which were sent in the six months leading up to the request. In addition to this, the ICO has pointed out that many of these emails contain attachments which have to be read to ensure they do not contain further information requests.
14. The ICO has pointed to the *Dransfield* decision and the comment of the Tribunal that:

"As regards the pattern, a requester who consistently submits multiple FOIA requests or associated correspondence within days of each other,

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http://ico.org.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx

or relentlessly bombards the public authority with e-mail traffic, is more likely to be found to have made a vexatious request."

15. The ICO has explained that at the time of receiving this request it had dealt with 17 previous requests for information in the preceding two years many of which focused on tribunal cases and asked for copies of judgements or court orders. Most relevant would seem to be the request which was the subject of an earlier Decision Notice⁵ by the Commissioner upholding the use of section 14(1). The request in that case was for a copy of a court order and was also made within lengthy correspondence leading to it being categorised as obsessive, persistent and lacking serious purpose or value.
16. The Commissioner has looked at his earlier decision to deem one of the complainant's requests vexatious and notes the similarities between the requests and the correspondence accompanying the requests. In particular the Commissioner notes that he had previously found that much of the complainant's requests relating to court and tribunal issues contained references to statutes that had no relation to the subject matter of the request and as such the requests and related correspondence were obsessive in both nature and extent.
17. Taking into account the frequency of the correspondence on court orders and tribunal decisions as set out by the ICO in this case and the lengthy unrelated nature of much of the correspondence within the emails which is evident in this request; the Commissioner considers that this request could be seen to be obsessive in nature and burdensome to the public authority as it is a continuation of the requests which the Commissioner had already found to be obsessive in nature and extent in his earlier Decision Notice.
18. The Commissioner recognises that, as with the request which was the subject of his earlier Decision Notice, the request in this case constitutes a part of a bombardment of similar requests and related correspondence. He also acknowledges the overlapping nature of the complainant's communications with the ICO. The ICO has explained that when viewed in isolation the burden of responding to this request would not be significant but the impact must be considered in light of all the other correspondence from the complainant. The ICO argues that it demonstrates a persistent pattern of communication which shows no sign of stopping and as there is no wider public interest to the request the purpose and relevance is unclear.

⁵ FS50471842

19. The ICO has also argued that the impact of dealing with the request would be unjustified and disproportionate. It has concluded this as it considers that it is unable to offer the complainant any resolution to his issues and cannot offer any assistance. As such the ICO considers the time and effort it would spend responding to the request is unjustified and disproportionate.
20. Taking into account the information provided in support of this case and his previous decision; the Commissioner would agree that the pattern of communication from the complainant is persistent and it is his view that responding to further requests on similar matters is not likely to end the matter but may in fact lead to further requests. This is evidenced by the fact that the ICO has been responding to correspondence and requests from the complainant over several years, mostly on issues relating to courts and tribunals, and this has only led to further requests and lengthy correspondence.
21. The serious purpose or value in the requests is not clear to the Commissioner. Clearly the issue is of some importance to the complainant but his requests are often contained within other voluminous correspondence and the value of providing the requested information is not apparent. He therefore accepts that the value of the requests does not justify the impact of complying with them as it would likely to lead to further lengthy correspondence and requests on similar issues.

Conclusion

22. Taking into consideration the above, the Commissioner is satisfied that the ICO correctly applied the exemption for vexatious requests at section 14(1) of FOIA.

Right of appeal

23. 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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

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

24. 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.
25. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF