

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 October 2015

Public Authority: Banbridge High School
Address: Primrose Gardens
Banbridge
County Down
BT32 3EW

Decision (including any steps ordered)

1. The complainant has requested from Banbridge High School (the "School") the full minutes of all its Board of Governors (BOG) meetings held since a specific date.
2. The School refused the information on the basis that the request is vexatious in accordance with section 14 of the FOIA.
3. The Commissioner's decision is that the request is vexatious and that the School has correctly applied section 14 of the FOIA to refuse the request. Therefore, the Commissioner does not require the School to take any steps.

Request and response

4. On 6 July 2015, the complainant wrote to the School and requested information in the following terms:

"Please would you make available for me the full minutes of all Board of Governors meetings held since and including June 2014 to the present date?"

5. On 16 July 2015 the complainant requested a response from the School and he added to the initial request:

"I have another further and separate FOIA request. I am requesting the full minutes of ALL of the BOG sub-committee meetings which took place since and including June 2014 to the present date."

6. On 31 July 2015 the School acknowledged the initial request and responded. It deemed the request as vexatious under section 14 of the FOIA.
7. On 10 August 2015 the School acknowledged the second request and in its response it also deemed this request as vexatious under section 14. The School noted that in both requests there appeared to be overlap in that the complainant was initially seeking the "full minutes" of all BOG meetings where it would have viewed these to include minutes of "sub-committees."

Scope of the case

8. The complainant contacted the Commissioner on 11 August 2015 to complain about the way his request for information had been handled.
9. The Commissioner considers the scope of this case is to be to determine whether the request is vexatious and if the School is correct to rely on section 14 of the FOIA to refuse to comply with the request.

Reasons for decision

Section 14 – vexatious requests

10. Section 14(1) of the FOIA states that a public authority may refuse a request if it is vexatious. The FOIA does not define the term, but it was discussed before the Upper Tribunal in the case of Information Commissioner vs Devon County Council & Dransfield [2012] UKUT 440 (AAC), (28 January 2013).
11. In this case the Upper Tribunal defined a vexatious request as one that is "*manifestly unjustified, inappropriate or improper use of a formal procedure.*" The Tribunal made it clear that the decision of whether a request is vexatious must be based on the circumstances surrounding the request.
12. In making his decision the Commissioner has obtained submissions from both the complainant and the School to understand the circumstances surrounding the request in order to reach a decision on whether the request is vexatious. The Commissioner will consider their arguments where appropriate.

Frequent or overlapping requests

13. The School argued that this is the sixth request for this type of material within the last three years and that this excludes the complainant's other requests under the Data Protection Act 1998 and other FOI requests for different information. In November 2012, December 2012, March 2013, November 2013 and on 6/16 July 2015 the School had received requests for information for minutes of Governor meetings and meetings between the School and the Education Authority during a specific period.
14. It considers that the complainant has over this time span used the legislation to cause disruption to the School in seeking such information which has caused undue harassment to the School's Principal.
15. The School argued that it has spent a considerable amount of time and resources in supplying information concerning the complainant's requests since 2012. This, it added, has consequently diverted the staff at the School from their primary duties in order to deal with the volume of material which these requests generate.
16. The School is of the view that in answering these requests, it has consumed a disproportionate and unjustifiable level of attention to these matters over a sustained period of time. The School said that this has resulted in unnecessary levels of anxiety and distress on the staff. Also, that the requests of this type have been repeatedly made during the School's busiest times (e.g. beginning or end of the new school term) which diverts the attention of the Principal from his responsibilities to the School.
17. The School explained that when the complainant receives the documentation from his requests, this generates further requests which often overlap, or he requests for the same information again. The School said that this appears to encourage a further series of requests for similar information. For this reason, the School considers that the requests seem to be part of a process by the complainant of seeking general information in order of identifying some further issues or material which can also be pursued.
18. The School considers that the requests follow a similar pattern of the information being requested from other areas of the educational system. The School said that the same information which is disclosed to the complainant by other organisations is then used by him to further harass the School to explain what he perceives as contradictions and inaccuracies. In June 2014 the complainant had requested medical information from the School and also to the Education Authority and the Department of Education. The School stated that the information

released was then used by the complainant for additional correspondence with the School.

19. The School argued that there is a lack of clarity in what the complainant is seeking and there is no clear focus or rationale to his requests which creates time consuming work for the School.
20. The School considers that the complainant has systematically sought over a sustained period of time to target, disrupt and cause undue anxiety to the Principal of the School. In its conclusion, the School included a case history of the complainant's information requests. These requests date from June 2012 to July 2015 and are for the same or similar information which resulted in the complainant being dissatisfied and lead to further complaints from him. The School listed nine requests for information over three years from 2012 to the latest request.

The complainant's position

21. The complainant argued that as the School is a public body managed by a Board of Governors, it is refusing to disclose the minutes of its meetings which he considers is public property.
22. He also argued that these minutes are public documents and that it is a requirement of the legislation governing public bodies that such minutes are made available upon request. The complainant said that other state schools in the UK make public documents available automatically as a matter of policy, e.g. on-line.
23. The complainant considers that there is a legitimate public interest here due to previous investigations at the School. The complainant said that staff have a professional interest in actions by school management, and how they, as professionals are managed and governed.
24. The complainant is of the view that the School has deemed his request as vexatious in order to prevent legitimate scrutiny of a public body, its actions, and its recording of them. He argued that the School refused to release the information because of what the disclosure of the minutes might reveal of the actions of the BOG of the School.

The Commissioner's view

25. The Commissioner understands that the complainant believes that the School should release the information requested and that the minutes are public documents, and therefore should be made available to view.
26. The Commissioner has considered the School's arguments and the history of the complainant's information requests. It is clear from this

evidence that there has been frequent and overlapping requests since 2012 and that it has caused disruption to the School.

27. The Commissioner has noted the complainant's persistence in seeking information which has caused unnecessary harassment to members of staff at the School. The fact that the staff had to deal with the volume of material which the requests would generate and the activity involved in answering these requests demonstrates excessive work and irritation to the staff at the School.
28. He also recognises the detrimental impact it would have in complying with the request which would cause a burden on the School and it would divert its Principal and other members of staff from their work duties.
29. The Commissioner acknowledges that the School had provided the information to previous requests. However, the Commissioner notes that the complainant has seemingly refused to accept the previous findings and he has been dissatisfied with any information that had been redacted. He also notes that the complainant had subsequently criticised the School and continued to demonstrate obsessive behaviour.
30. The complainant had argued that the content (previous information) provided from the School was not acceptable and he complained about the lack of co-operation from the School. He would also complain to the School about information that had been released to him by other areas of the educational system. The Commissioner sees all this as obsessive behaviour and he notes that in addition, the complainant continued to submit further information requests and expressed his dissatisfaction to the School on its outcome.
31. The complainant's frequent correspondence about the same issue and the repeated requests for information is evidence of unreasonable persistence. The Commissioner accepts that this is a burden on the authority.
32. The Commissioner considers that given the evidence supporting the disproportionate and unjustified level of disruption and distress caused over three years that the request is vexatious. Taking into account the high volume of correspondence, the time and resources spent in answering the requests and the disruption it caused, all contributed to undue anxiety and distress to staff at the School.
33. The Commissioner notes that the complainant is of the view that the School failed/refused to investigate or report particular incidents that he said took place at the School. The complainant has raised concerns and he has argued his reasons for requesting the information. However, no

evidence has been provided by the complainant to support his arguments relating to the quality of education at the School.

34. The Commissioner finds that the request is for minutes of all the School's BOG meetings which follows a pattern but does not have any serious purpose. Therefore, the Commissioner is not satisfied that there is any clear reason or serious purpose to the complainant's repeated requests over the period of time.
35. The Commissioner therefore finds that the School is correct to apply section 14 of the FOIA.

Right of appeal

36. 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@hmcts.gsi.gov.uk

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

37. 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.
38. 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

Rachael Cragg
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