# Freedom of Information Act 2000 (FOIA)

# Decision notice

**Date:** 19 May 2016

**Public Authority:** Trinity Hall
**Address:** Trinity Lane
Cambridge
CB2 1TJ

## Decision (including any steps ordered)

1. The complainant has requested information from Trinity Hall ("the College").

2. The Commissioner's decision is that the College correctly applied section 14(1) to the requests.

3. The Commissioner requires the College to take no steps.

## Request and response

4. On 3 December 2014 the complainant wrote to the College and requested information in the following terms:

*"Could you obtain and provide the following information which I think will help us both to understand the underlying situation:*

- *The circumstances you mention for the bans you say were placed in February 2013*
- *Who knew about them and who was told:* [redacted name] *and* [redacted name] *were not aware of them*
- *A copy of the notifications to me about the bans you say were placed in February 2013*
- *A copy of any instructions to the porters about it*
- *A copy of the response from the Head Porter to my letter asking for clarification*

- *The reasons why four members of staff made uninvited contact last autumn **(i.e. AUTUMN 2013)** if they were under instruction not to correspond*

  *If you have been advised that you do not need to correspond, I would like to suggest you seek a second opinion as this led to the intervention of the regulator and breaches of the law. Requests for information must be handled under the Data Protection Act or Freedom of Information Act, as appropriate. I'm afraid that when it gets to the point of involving a regulator, that is rather serious, especially where breaches continue after the college has advised the regulator that it will comply in future.*

  *The root problem is the attitude of individuals and their resultant behaviours which are not in line with a friendly college or a charity. Is there any information about how people are chosen to represent the college and what code of ethics they sign up to?*
  *Please note I put the bursar on notice not to contact me again last summer and this ban is still in place.*
  *We need to find out why I have been banned, but* [redacted name] *was not banned for persistent rudeness to the porters. Is there any information about this?*
  *Please could you also provide the following, e.g. from the constitution, statutes and ordinances or other governing policy:*

- *Within the college constitution should be a code of ethics / core principles / code of conduct, including for volunteers*
- *The procedure for seeing the archives and when they are open*
- *Any regulations or information about bans and attendance at events*
- *The Code of Practice required by the Education Act Section 43 on freedom of speech referred to at point 4 of the link below. The authorities of a College in the University have a particular duty to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees? of the College: Education (No.2) Act 1986, section 43: http://www.legislation.gov.uk/ukpga/1986/61/section/43*"

5. On 16 December 2014 the complainant submitted a further request to the College. This request sought the following information:

   *"Please could you provide me with copies of your responses and internal reviews relating to the following information requests:*

- *FOI and formal review request dated 27th March, 2013 sent at 6.16pm*
- *FOI requests dated 4th / 9th May, 2013*
- *Request dated 19th June, 2013*

- *Formal request for a review dated 2nd August, 2013*
- *Copies of communications sent to me any time last summer about collecting replacement magazines and contacting my year rep about concerns*

  *Could you advise me whether it is now possible to contact year reps via the online community as I recall this was due to be fixed by the end of this year.*

  *Please could you provide me with the link to the alumni survey conducted last year which you advised me was on your website but I cannot find.*

  *I asked for this to be provided to the THA AGM this year and have asked for it twice before. Failing that, please would you provide me with a copy of the survey results.*

  *Please could you also send me copies of your communications of March, 2013 in which you advised me how to make FOI or DPA requests.*

  *Please would you also take my formal complaint about non-provision of information requested in a subject access request dated 1st October, 2014 (paid for on 10th October) to the next stage of your internal complaints procedure.*

  *It would also be helpful to have information about your internal complaints procedure and how to access it.*

  *I understand you received a phone call from* [redacted name] *in October. Could you advise us of the response to that call."*

6. The College did not respond to the requests. The complainant subsequently made a complaint to the Commissioner.

7. The Commissioner wrote to the complainant on 20 August 2015 to confirm the scope of the complaint. At this stage the Commissioner advised the complainant that he would only be looking at the FOI elements of her request and his understanding was that she had not received a response from the College in relation to the FOI elements.

8. The complainant contacted the Commissioner on 21 August 2015 to confirm the scope of her complaint. She advised the Commissioner that his understanding was correct. She also advised that she had received some of the information requested such as the link to the alumni survey and its results. The complainant advised that the information that had been provided could be removed from the scope of her complaint.

9. The Commissioner contacted the College on 14 September 2015 providing it with a copy of the requests dated 3 December and 16 December 2014 and asking it to respond.

10. The College provided the complainant with a response to her requests on 23 October 2015. The College refused to respond to the requests on the grounds that they were repeated and fell under section 14(2). It further advised that it did not hold information relating to why a specific individual was not banned or a telephone record that the College had with an individual in October.

11. The complainant subsequently returned to the College and asked for an internal review to be carried out. She stated that she had not already received the information that she had requested.

12. The internal review outcome maintained the College's position that the information requested had already been provided or was not held.

## Scope of the case

13. Upon receipt of the internal review response, the complainant made a new complaint to the ICO about the way her requests for information were handled.

14. The Commissioner contacted the complainant on 18 February 2016 setting out the scope of the complaint. The Commissioner explained that his investigation would solely focus on whether the College had correctly applied section 14(2) to the request. The complainant did not dispute this.

15. During the Commissioner's investigation, the College sought to rely upon section 14(1) on the basis that the requests were vexatious.

16. The Commissioner has therefore had to consider whether the College was correct to apply section 14(1) to the requests of 3 December and 16 December 2014.

## Reasons for decision

17. Section 14(1) states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious. There is no public interest test.

18. The term "vexatious" is not defined in the FOIA. The Upper Tribunal (information Rights) considered in some detail the issue of vexatious

requests in the case of the *Information Commissioner v Devon CC & Dransfield*[1]. The Tribunal commented that vexatious could be defined as the "*manifestly unjustified, inappropriate or improper use of a formal procedure".* The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.

19. In the Dransfield case, the Upper Tribunal also found it instructive to assess the question of whether a request is truly vexatious by considering four broad issues: (1) the burden imposed by the request (on the public authority and its staff); (2) the motive of the requester; (3) the value or serious purpose of the request and (4) harassment or distress of and to staff.

20. The Upper Tribunal did however also caution that these considerations were not meant to be exhaustive. Rather, it stressed the:

> "*importance of adopting a holistic and broad approach to the determination of whether a request is vexatious or not, emphasising the attributes of manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious requests" (paragraph 45).*

21. In the Commissioner's view the key question for public authorities to consider when determining if a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.

22. The Commissioner has identified a number of "indicators" which may be useful in identifying vexatious requests. These are set out in his published guidance on vexatious requests.[2] 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.

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[1] GIA/3037/2011

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

*College's position*

23. The College explained that it considered that the requests demonstrated the burden on the College of trying to deal with the complainant's persistent requests for information. The College explained that it did not deny that the requests represented the complainant's legitimate concerns. However it argued that the volume of her communications and the number of issues she raises within her correspondence places an oppressive strain on the time and resources of the College.

24. The College explained that the information that has been requested has been supplied previously. The College provided the Commissioner with examples of this. For example, the College explained that information relating to contacting year reps has been previously provided on 4 December 2013, 13 March 2014 and 8 August 2014.

25. The College argued that the complainant has no obvious intent to obtain information. The College explained its view that it considered the complainant:

*"…is abusing her right to access information by using the Freedom of Information Act as a means to harass the College by persistently requesting information we know she already possess or that can be accessed by other means. For example, the College's Data Protection Policy and procedure for submitting statutory requests is available on the College website via the following link:*

*http://www.trinhall.cam.ac.uk/about/policy-statements/detail.asp?ItemID=285 .*

*This information has been communicated to* [the complainant] *on at least seven occasions since December 2013 and yet she has continued to ask for confirmation of how to make formal requests for information. Similarly, she has repeatedly requested replacement copies of magazines despite being informed about how to access these publications on-line on at least three occasions".*

26. The College argued that it has made substantial efforts to deal with the complainant's requests. It further explained that the volume and complexity of her communications can make it extremely difficult to identify her specific concerns. The College also explained:

*"I have tried to deal with her enquiries in a timely and courteous way, however, her continued demands are both burdensome and stressful and it is difficult not to conclude that whatever information is provided it is never enough to satisfy her. By way of example, she requested a formal review of a large number of issues on 6 November 2013. A full response was sent addressed the issues raised on 4 December 2013.*

[The complainant] *responded with further queries on 21 January 2014 to which a response was sent on 28 January 2014. Once again she came back with more queries on 19 February 2014 and a response was supplied on 13 March 2014. On 2 April 2014 another email with more queries was received to which a response was sent on 12 May 2014".*

27. The College concluded by stating that although it has obligations under the FOIA:

*"…as a registered charity with an obligation to use its resources to further its charitable purposes of the provision of a college in the University of Cambridge for the advancement of education, religion, learning and research, it is difficult to justify the amount of time and effort required trying to satisfy* [the complainant] *enquires. In addition, it is hard to accept that the purpose and wider value of her requests justify the distress and disruption caused in answering them".*

*The Commissioner's view*

28. Firstly, the Commissioner would like to highlight that there are many different reasons why a request may be vexatious, as reflected in the Commissioner's guidance. There are no prescriptive 'rules', although there are generally typical characteristics and circumstances that assist in making a judgement about whether a request is vexatious. A request does not necessarily have to be about the same issue as previous correspondence to be classed as vexatious, but equally, the request may be connected to others by a broad or narrow theme that relates them. A commonly identified feature of vexatious requests is that they can emanate from some sense of grievance or alleged wrong-doing on the part of the authority.

29. The Commissioner's approach is to assess whether the level of disruption, irritation or distress caused to the authority by the request is disproportionate or unjustified, when weighed against the purpose and value of the request. When making the assessment, he has also taken into account the context and history of the request, ie the wider circumstances surrounding the request.

30. The Commissioner notes that the College has already spent a lot of time responding to the complainant's requests and correspondence in an attempt to resolve the matter. However these attempts have been unsuccessful and ultimately lead to further correspondence on the matter. The Commissioner does not consider that compliance with the FOI elements of the requests of 3 December and 16 December 2014 would resolve the issue that the complainant has with the College.

31. The Commissioner also considers that given the length of time that the complainant has been corresponding with the College about the matter, it is reasonable to conclude that the complainant will continue to submit requests, and/or maintain contact about the subject matter regardless of any response provided to the request in question. The Commissioner is therefore satisfied that, in the context of the College previous and ongoing dealings with the complainant, it is likely that compliance with these requests would generate additional requests. This would, in turn, result in a disproportionate burden on its resources.

32. Taking into account all the circumstances of the case, the Commissioner considers that a strong case has been presented to demonstrate that the request is vexatious. It was not the intention of the legislation that individuals should be allowed to pursue ongoing disputes to an unreasonable extent through the use of the FOIA. Limited public resources should not be spent on continuous unproductive exchanges. The FOIA gives significant rights to individuals and it is important that those rights are exercised in a reasonable way. There comes a point when the action being taken and the associated burden being imposed on the authority is disproportionate to the objective that the complainant is attempting to achieve. In the Commissioner's view, that point has been reached in this case. The Commissioner does not consider that the purpose and value of the requests outweighs the disproportionate or unjustified disruption, irritation and distress caused to the College if it were to respond. In light of this, there is nothing to suggest that there is any serious purpose or value behind the request which is sufficient to warrant the Commissioner overturning the Colleges decision to rely on section 14(1).

33. In light of the above, the Commissioner is satisfied that the College correctly applied section 14(1) to the requests dated 3 December and 16 December 2014.

## Right of appeal

34. 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

35. 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.

36. 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**
**Group Manager**
**Information Commissioner's Office**
**Wycliffe House**
**Water Lane**
**Wilmslow**
**Cheshire**
**SK9 5AF**