

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 February 2018

Public Authority: Queen Mary University of London

Address: Mile End Road
London
E1 4NS

Decision (including any steps ordered)

1. The complainant has requested information from the Queen Mary University of London ("QMUL") that relates to the number of allocated places and admitted students for specific courses in London and Malta for specified academic years; the number of exemptions/waivers issued in respect of the United Kingdom Clinical Aptitude Test ("UKCAT") for specified academic years; the list of all grounds of exemptions/waivers for the UKCAT which have been issued; and a copy of the standard/generic notice issued by QMUL giving notice/waiver for the UKCAT. QMUL refused to comply with the requests as it considered them to be vexatious under section 14(1) of the FOIA.
2. The Commissioner's decision is that QMUL has correctly applied section 14(1) of the FOIA.
3. The Commissioner does not require the public authority to take any steps to ensure compliance with the legislation.

Request and response

4. On 3 October 2017, the complainant wrote to QMUL and requested information in the following terms:

"Please provide the following information:

(1) The number of places allocated for each of (i) the A100 Course ((a) London, and (b) Malta) and (ii) the A101 Course (MBBS) for each of the following years:

2015-16?

2016-17?

2017-18?

2018-19?

(2) The number of students admitted to (i) the A100 Course ((a) London, and (b) Malta) and (ii) the A101 Course (MBBS) for each of the following years:

2015-16?

2016-17?

2017-18?

(3) The number of exemptions/waivers issued in respect of the UKCAT in respect of each entry year (number of exemptions/waivers per year) of use:

2005-06 to 2018-19

(4) List of all grounds on which exemptions/waivers for the UKCAT has been issued (at any time 2005-2017). Please state specific 'medical' grounds; and list specific 'geographical locations'; and specific details of 'other' grounds.

(5) Copy of the standard/generic (anonymised) notice (email and/or letter) issued by the QMUL giving notice of exemption/waiver for the UKCAT?

Thank you for your attention."

5. QMUL responded on 8 October 2017. It stated that the request was refused as vexatious under section 14(1) of the FOIA.
6. Remaining dissatisfied with the response, on 9 October 2017 the complainant requested an internal review to be conducted.
7. QMUL responded on 12 October informing the complainant that it did not intend to carry out an internal review, since it considered the request and previous correspondence to be connected with admissions to the School of Medicine and Dentistry, which was previously dealt with by QMUL.

Scope of the case

8. The complainant contacted the Commissioner on 14 October to contest the QMUL's refusal of his requests.
9. The Commissioner considers the scope of this case to be the identification of whether QMUL has correctly refused the requests under section 14(1) of the FOIA.

Reasons for decision

Section 14(1) – vexatious requests

10. Section 14(1) of FOIA provides that a public authority is not obliged to comply with a request for information if the request is vexatious.
11. The term 'vexatious' is not defined in the FOIA. The Upper-tier Tribunal considered the issue of vexatious requests in the case of the *Information Commissioner vs Mr Alan Dransfield (Dransfield)* and concluded that the term could be defined as "manifestly unjustified, inappropriate or improper use of a formal procedure".¹
12. The *Dransfield* case identified four factors that may be present in vexatious requests:
 - the burden imposed by the request (on the public authority and its staff);
 - the motive of the requester;
 - harassment or distress caused to staff; and
 - the value or serious purpose of the request.

¹ Information Commissioner and Devon County Council vs Mr Alan Dransfield [GIA/3037/2011], para. 27.

13. The Commissioner has also identified a number of 'indicators' which may be useful in identifying vexatious requests. These are set out in her published guidance on vexatious requests.² In short they include:
 - abusive or aggressive language;
 - burden on the authority;
 - personal grudges;
 - unreasonable persistence;
 - unfounded accusations;
 - intransigence;
 - frequent or overlapping requests; and
 - deliberate intention to cause annoyance.
14. 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.
15. The Commissioner's guidance suggests 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.
16. Where relevant, public authorities also need to take into account wider factors such as the background and history of the request. However, it is important to recognise that one request can in itself be 'vexatious' depending on the circumstances of that request.

The QMUL's position

17. The Commissioner wrote to QMUL requesting a submission in respect of a number of questions relating to the allegations raised by the complainant. The questions were focused on the factors that QMUL took into account when it decided to refuse the complainant's requests for information.
18. QMUL responded to the Commissioner's letter by providing, in addition to the answers, a chronological description of all previous requests submitted by the complainant.
19. According to QMUL, the complainant has a long history of submitting different complaints, following an unsuccessful application for transfer to QMUL's School of Medicine and Dentistry (SMD) in the academic year 2007/08. The complainant's request for transfer had been accepted

² <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

under the condition that he passed his current year in the previous academic institution, which he failed to do so. This resulted in a withdrawal of the offer.

20. QMUL asserts that the complainant continued to apply to SMD, but failed due to his objections against the use of the UKCAT in its admissions process. Consequently QMUL considers that the complainant's current request concerning admissions to the SMD and exemptions for the UKCAT, is simply a continuation of the grievance he holds against QMUL.
21. QMUL explained that in accordance with its Records Retention Policy, it only keep records of information access requests for three calendar years. Therefore it does not hold records for information requests before January 2014. In this regard QMUL explained that since this date, the complainant submitted 11 information requests and two subject access requests. QMUL provided copies of these information requests and a brief description for each of them (included in the Annex attached to this notice).
22. When it decided to refuse to respond to the latest request submitted by the complainant, QMUL took into account various factors, such as the fact that the requests are inter-related, the threatening language that the complainant uses in his correspondence, unfounded allegations and accusations and his pattern of behaviour which suggests that he will not be satisfied and stop making requests until he has been admitted to QMUL.
23. QMUL maintains that much of the correspondence from the complainant contains evidence of unreasonableness, expressing a personal grudge against certain members of staff. According to QMUL, dealing with the complainant's requests and correspondence over 10 years has been burdensome.
24. QMUL explained in its submission that it receives information requests from other members of the public, mainly prospective students and continuously publishes information related to admission requirements. In addition, QMUL in the past has received and continues to receive similar queries through the WhatDoTheyKnow platform³ and so far it did not have cause to refuse any as vexatious. However, in respect of the complainant's information requests, QMUL considers that any response will only generate further queries, correspondence and possibly new information requests.
25. Furthermore, QMUL asserted that medicine and dentistry are very competitive courses and its admissions centre is extremely busy as it is.

³ https://www.whatdotheyknow.com/body/queen_mary_university_of_london

Complying with information and subject access requests takes valuable resources away from key tasks and the complainant has created a disproportionate impact.

26. In conclusion, QMUL considers that the current request is an attempt to pursue personal grievances through the use of the FOIA. QMUL maintains that the information is not of great public interest, rather it is likely that the motive behind the request is to try to gather information for the purposes of re-opening the complainant's case against QMUL.

The complainant's position

27. The complainant considers that as a member of the public, he is entitled to have access to the requested information. He claims that *"...it is in the Public Interest for QMUL to disclose information detailing the number of occasions exemptions for the UKCAT have been issued in respect of admissions processes for which QMUL receives Public Money [sic]"*
28. The complainant refers to a previous decision notice issued by the Commissioner in case [FS50508076](#)⁴, in which it was held that *"...there is a legitimate public interest in the openness and accountability of the university and of those responsible for its admission policies and the selection of entry testing procedures."*
29. The complainant explained that he was an applicant to QMUL for 2017 entry, and he is an applicant in the current admissions round. He maintains that his information requests pertain to these processes, and *"...any allegation by the QMUL FOI Officer that my FOI Request pertains to historical events will be a false representation by QMUL."*

The Commissioner's view

30. Firstly, the Commissioner would like to highlight that there are many different reasons why a request may be considered 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 judgment about whether a request is vexatious. A request does not necessarily have to be about the same issue as previous correspondence to be classed vexatious, but equally, the request may be connected to others by a broad or narrow theme. 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.

⁴ https://ico.org.uk/media/action-weve-taken/decision-notice/2014/1042169/fs_50508076.pdf

31. The Commissioner's guidance has emphasised that proportionality is the key consideration for a public authority when deciding whether to refuse a request as vexatious. The public authority must essentially consider whether the value of a request outweighs the impact that the request would have on the public authority's resources in providing it. Aspects that can be considered in relation to this include the purpose and value of the information requested, and the burden upon the public authority's resources.
32. In this respect, the Commissioner notes that the complainant has previously submitted four complaints to her against QMUL. Three of them resulted in decision notices: [FS50296057](https://ico.org.uk/media/action-weve-taken/decision-notices/2010/555002/FS_50296057.pdf)⁵; [FS50310073](https://ico.org.uk/media/action-weve-taken/decision-notices/2010/555982/FS_50310073.pdf)⁶ and [FS50306071](https://ico.org.uk/media/action-weve-taken/decision-notices/2010/555590/FS_50306071.pdf)⁷ upholding the QMUL's correct application of section 14(1), whilst case FS50595781 was closed as result of a solution achieved informally.
33. In case FS50296057 the complainant requested certain details regarding the Admissions and Recruitment Committee held in May 2009. In case FS50310073 the complainant requested the number of students that were paid to delay accepting their place over three years. In case FS50306071 the complainant requested the date QMUL validated its admissions policy with regard to applicants with disabilities, learning difficulties and chronic medical conditions.
34. It appears that the complainant is continuously in search of a fault in the admissions process within QMUL and he is very eager to prove that QMUL should not use UKCAT as part of its admissions procedure for prospective students. On several occasions, while corresponding with different staff members of QMUL, the complainant asserted that the UKCAT is an inadequate tool to be used in the admissions process. Ultimately, he believes that this method of admission test has prevented him from studying at QMUL.
35. In relation to the complainant's argument that the Commissioner in her decision notice FS50508076 held that "*...there is a legitimate public interest in the openness and accountability of the university and of those responsible for its admission policies and the selection of entry testing procedures.*", the Commissioner reiterates that she examines each case individually based on its specific characteristics and circumstances.

⁵ https://ico.org.uk/media/action-weve-taken/decision-notices/2010/555002/FS_50296057.pdf

⁶ https://ico.org.uk/media/action-weve-taken/decision-notices/2010/555982/FS_50310073.pdf

⁷ https://ico.org.uk/media/action-weve-taken/decision-notices/2010/555590/FS_50306071.pdf

36. In the above mentioned case, the public authority was a different university from QMUL. The complainant requested the university's entry selection process. The university based its decision to withhold requested information by the complainant on a different ground. Namely in that case the public authority applied section 40(2) of the FOIA claiming that the requested information contained personal data of third persons. The Commissioner's decision was that by exempting parts of the information under section 40(2) of FOIA the university did not deal with the request in accordance with the FOIA.
37. However, the present case deals with a different information request, involving a different public authority, with a different history of communication between the complainant and the public authority, under different circumstances, and finally the public authority cited a different ground to refuse to comply with the complainant's request. Taking into account all the above components, the Commissioner may come to a different decision from that reached in FS50508076.
38. In relation to the complainant's assertion that this complaint should be examined only in relation to his recent application(s) to QMUL and should not be linked to previous information requests, the Commissioner notes that the passage of time is not the only or determining factor when considering the application of section 14(1). In light of this, the Commissioner also considered the subject matter of previous requests and it appears that a common feature of most of the complainant's request are related to the admissions process and selection criteria of QMUL.
39. Furthermore, the Commissioner notes from the QMUL's submission that despite the fact that it has a long history of correspondence with the complainant, QMUL's reflex was not always to apply section 14(1) to the complainant's requests. From 11 information requests submitted from 2 February 2014 until 29 March 2016 only four of them were declared vexatious. On five other occasions it supplied the requested information which was held, on one occasion QMUL did not hold the information requested and in another one it applied section 21 when it decided not to disclose the information requested.
40. In addition, the Commissioner has examined the amount of correspondence, the pattern that follows a response from QMUL and the language used by the complainant. In this respect she notes that, despite the fact that in certain periods of time the complainant did not submit formal requests, he continued to write to certain individuals involved either in the admission process or FOI team within QMUL. In certain instances the complainant has threatened legal action and sent different warnings highlighting their alleged unlawful acts. He even requested the home address of the Records and Information Compliance

Manager of QMUL, with the reason that he needs it to serve legal proceedings.

41. In conclusion, having considered all the information provided by both parties it is difficult for the Commissioner to conclude that there is an overriding public interest in the information that would necessitate compliance with the request.
42. It is clear that the issues between QMUL and the complainant have been ongoing for some time and do not appear to be at a stage where they will be resolved soon. QMUL believes that the complainant will never be satisfied with the outcome of any information provided and will continually ask questions in order to reopen the debate and issues which have already been considered and addressed by the relevant bodies.
43. The Commissioner appreciates that the information the complainant has requested is of interest to him. However, the Commissioner has to consider whether the request is of sufficient wider public interest or value that it would be reasonable for QMUL to comply with it, despite the burden involved. On this occasion, the Commissioner considers that complying with the request would be a burden that is disproportionate to the request's wider value.
44. The Commissioner has given consideration to the findings of the Upper Tribunal in *Dransfield* that a holistic and broad approach should be taken in respect of section 14(1). She has decided that the Council was correct to find the request vexatious. The Commissioner is satisfied that the request is persistent and the effort in dealing with the request would be disproportionate. The Commissioner therefore finds that section 14(1) has been applied correctly in this case.

Right of appeal

45. 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

46. 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.
47. 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

Alun Johnson
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex – previous information requests

48. The information requests submitted by the complainant to QMUL since January 2014:

- a. 20/02/2014 (QMUL ref: 2014/F47) - Minutes of meetings where use of UKCAT was proposed and agreed. UKCAT cut-off scores for A100 and A101 2008-2014.

Response: Information supplied.

- b. 09/06/2014 (QMUL ref: 2014/F145) - See 2014/F47; clarification on who ratified use of UKCAT and increase in threshold each year.

Information supplied where held.

- c. 12/06/2014 (QMUL ref: 2014/F151) - Whistleblowing Policy for 2007/08 and 2008 to 2013. Some information supplied, some refused under s.21 accessible by other means.

- d. 22/08/2014 (QMUL ref: 2014/F215) - The pass standards for MBBS A100 and A101 year 1 as set by the Examination Board for years 2006/07 to 2013/14.

Information supplied.

- e. 14/05/2015 (QMUL ref: 2015/F108) - Dates of admissions interviews and offers made for A100 and A101 in 2008, 2009, 2014 and 2015. Copy of offer letter.

Information supplied where held.

- f. 03/06/2015 (QMUL ref: 2015/F120) - Dates of admissions interviews and offers made for transfer students to MBBS. Copy of offer letter.

Refused under s.14(1) vexatious.

- g. 06/08/2015 (QMUL ref: 2015/F169) - When a line in the SMD UG Admissions Policy was inserted (about students who have withdrawn or been deregistered at another school).

Refused under s.14(1) vexatious.

- h. 04/09/2015 (QMUL ref: 2015/F194) - Information on the termination of the GEP joint admissions process with Warwick University.

Refused under s.14(1) vexatious.

- i. 05/10/2015 (QMUL ref: 2015/F228) - Copy of internal review process for FOI requests, including names of those who undertake internal reviews.

Information supplied.

- j. 14/03/2016 (QMUL ref: 2016/F94) - The name of the QMUL member of staff who carried out an internal review on his request from 06/08/2015.

Refused under s.14(1) vexatious.

- k. 29/03/2016 (QMUL ref: 2016/F107) - Copy of the contract between QMUL and Barts Health Trust for training of medical students on 3-year clinical course.

Information not held.