

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 20 December 2022

**Public Authority:** Council of the University of London  
**Address:** Senate House  
Malet Street  
London  
WC1E 7HU

#### **Decision (including any steps ordered)**

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1. The complainant requested information from the University of London (the University) relating to the requirement for a physical copy of a PhD thesis to be provided. The University refused the request under section 14(1) of FOIA (vexatious request).
2. The Commissioner's decision is that the request was vexatious and therefore the University was entitled to rely upon section 14(1) of FOIA to refuse it.
3. The Commissioner does not require any steps to be taken as a result of this decision notice.

#### **Request and response**

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4. On 18 January 2022, the complainant made the following request for information:  
  
"Thank to [NAME AND JOB TITLE REDACTED], for her kind response on 11 January 2022 to the request by [NAME AND REFERENCE REDACTED] regarding publication of the thesis titled "Unfair trade practices and safeguard actions".

In accordance with [NAME REDACTED]'s reply: "The University of London has not published this thesis as no physical copy of the thesis was received into the University from the examiners," I am curious to know the meanings behind this reply, which could contribute to a comparative study of the education systems in the UK and the USA.

1. What is the reason the University of London must receive a physical copy of the thesis mentioned above from the examiners before the thesis can be published?

2. Is it true that PhD candidates that require a thesis and oral examination must have a physical copy of their thesis submitted from the examiners to the University in order to be awarded a PhD?

3. In regards to physical copy of the candidate's thesis submitted from the examiners, is a copy of the successful thesis (a copy of the thesis' final version revised in light of the examiner's joint final report after oral examination) or a copy of the initial thesis submitted for the oral examination, or something else?

I would be most grateful if you would reply at your earliest convenience."

5. On 19 January 2022, the University responded that the request was being refused because it was vexatious under section 14(1) of FOIA.

6. The complainant requested an internal review on 6 February 2022. The University upheld its decision via internal review on 9 March 2022. As part of the internal review, the University nevertheless provided a link to its current PhD regulations.

## **Scope of the case**

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7. The complainant contacted the Commissioner on 22 March 2022 to complain about the way their request for information had been handled.

8. This notice covers whether the University correctly determined that the request was vexatious.

## **Reasons for decision**

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### **Section 14(1) – vexatious requests**

9. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
10. The word "vexatious" is not defined in FOIA. However, as the Commissioner's updated guidance on section 14(1)<sup>1</sup> states, it is established that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation, or distress.
11. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
12. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
13. The emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) ("*Dransfield*")<sup>2</sup>. Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.
14. *Dransfield* established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation, or distress.
15. The four broad themes considered by the Upper Tribunal in *Dransfield* were:
  - the burden (on the public authority and its staff);
  - the motive (of the requester);
  - the value or serious purpose (of the request); and

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<sup>1</sup> <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

<sup>2</sup> <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

- any harassment or distress (of and to staff).
16. However, the UT emphasised that these four broad themes are not a checklist and are not exhaustive. They stated:

“all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA” (paragraph 82).

### **The University's view**

17. The University has said that it initially responded to the request using the exemption at Section 14(1) as it considered that the request formed part of a concerted campaign of similarly themed requests submitted over 2 years to both the University of London and London School of Economics, designed to further certain theories about the academic record of President Tsai Ing-Wen. It explained that dealing with these requests began to cause an unjustified level of disruption to its services and so it began refusing them from January 2022 under the exemption at section 14 (1) of FOIA.
18. The University noted that in their internal review request the complainant stated that they had no interest in Tsai Ing-Wen and merely wanted to compare the UK and US education systems. The University explained that it has received many requests from people who state that their interest is not related to the Tsai Ing-Wen campaign, but who subsequently continue to ask specific questions relating to the issue of Tsai Ing-Wen.
19. The University added that it has received 159 requests relating to the thesis of Tsai Ing-Wen: 25 in 2021 and 134 in 2022. Many requests focus on trivial matters in relation to the thesis, such as questions around packing used for a PhD certificate, the alignment of pages in PhD theses and the embossing seal. 11 requests asked for information relating to the regulations or requirements around submitting a PhD within the University of London. The University explained that it initially responded to many of these requests giving information where available or not covered by other exemptions within FOIA. These responses provoked further questions and requests, some of which asked for substantially the same information, relating to this matter and the volume of requests began to overwhelm the University's FOI service.
20. The University has made two public statements in which it sets out all information and understanding available in relation to the matter of Tsai Ing-Wen's PhD award and has highlighted that the information it has

already disclosed is available through responses to requests made via the WhatDoTheyKnow website. It added that many of the requesters refer to one another's requests and responses sent by its FOI team when making their own request, indicating that these individuals are sharing responses to requests.

21. The University added that, although not applicable to the complainant's correspondence, it has received a number of aggressive and accusatory emails from requesters on this subject as well as staff names and photos appearing on a blog. This has caused distress to University staff as well as the increased volume of requests.

### **The complainant's view**

22. The complainant has said that they do not consider that the grounds for their request being considered as vexatious have been met. They have pointed out that this was their first request to the University and they have been polite and appreciative in tone in their correspondence.
23. The complainant considers the questions asked in their request as straightforward and that the information sought would be of value to the public.

### **The Commissioner's decision**

24. In cases where a public authority is relying on section 14(1), it is for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate, or improper use of FOIA.

### **The value of the request**

25. The Commissioner acknowledges that the subject matter may be of public interest.
26. He accepts that, by seeking transparency and accountability, a request will have value or serious purpose.

### **The negative impacts of the request - burden, motive, and harassment**

27. The Commissioner acknowledges that the University considers that the motive of the requester is to cause undue disruption as part of a wider campaign surrounding the thesis of President Tsai Ing-Wen.
28. The Commissioner notes the University's view that responding to the request could lead to high numbers of follow on questions from the

complainant and other requesters as it has experienced this previously in late 2021 and early 2022. The University has provided examples of aggressive and harassing language used by other requesters on this subject and while this does not apply to the complainant in this case, the Commissioner understands that this is still a consideration for the University.

29. The Commissioner has reviewed the other requests regarding the thesis of Tsai Ing-Wen referenced by the University and noted the similar theme of the questions in the complainant's request. The Commissioner also notes that the original request includes the title of Tsai Ing-Wen's thesis and references a response from another requester so he finds it understandable that the University would connect the complainant's request to the large volume of other requests on the same subject. This supports the argument that the request is in fact part of a wider campaign.
30. He considers that, in the circumstances of this case, this lessens the value of the request and supports the argument that the request is vexatious.

### **Balancing the value of the request against the negative impacts**

31. In reaching a decision in this case, the Commissioner has balanced the purpose and value of the request against the detrimental effect on the public authority.
32. He has also considered, in light of the nature, and degree, of the dealings between the complainant and the University, whether, at the time, the request crossed the threshold of what was reasonable.
33. The purpose of section 14 of FOIA is to protect public authorities and their employees in their everyday business. In his guidance, the Commissioner recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
34. Having balanced the purpose and value of the request against the detrimental effect on the University, the Commissioner is satisfied that the request was not an appropriate use of FOIA procedure.
35. The Commissioner considers that the request was vexatious and therefore the University was entitled to rely on section 14(1) of FOIA to refuse the request.

## Right of appeal

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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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

**Michael Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**