

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 June 2024

Public Authority: The Governing Body of the University of Sheffield

Address: Western Bank
Sheffield
S10 2TN

Decision (including any steps ordered)

1. The complainant has requested copies of studies and reports held by a named professor that provide evidence of the existence of SARS-COV-2. The University of Sheffield ('the University') refused the request under section 14(1) of FOIA (vexatious requests).
2. The Commissioner's decision is that the University has incorrectly applied section 14(1) to categorise the request as vexatious.
3. The Commissioner requires the University to take the following steps to ensure compliance with the legislation:
 - Disclose the requested information or issue a fresh response to the complainant's request that complies with FOIA and which does not rely on section 14(1).
4. The University must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

Request and response

5. On 30 September 2023, the complainant wrote to the University and requested information in the following terms:

"This is a formal requirement for records, as per your duty under the Freedom of Information Act 2000 (FOIA).

Description of Records

1. All studies/reports in the possession, custody or control of University of Sheffield Professor [NAME REDACTED] ([REDACTED]) that scientifically prove or provide evidence for the existence of the alleged "SARS-COV-2" (showing that the alleged particle exists and causes the dis-ease that it's alleged to cause).

Note:

Scientific proof/evidence is NOT

Opinions, or

Speculation, or

Review papers, or

Descriptive papers.

Scientific proof/evidence requires use of the scientific method to test falsifiable hypotheses through valid, repeatable controlled experiments where only 1 variable differs between the experimental and control groups.

2. If [NAME REDACTED] has no studies responsive to #1 above, then please indicate such explicitly, and provide all studies and/or reports in [NAME REDACTED]'s possession, custody or control merely describing the alleged "SARS-COV-2" being found in the bodily fluid/tissue/excrement of any sick person and separated from everything else in the patient sample, without the addition of any genetic material. Successful separation must be confirmed via EM imaging and the image(s) must be included as well.

I am aware that according to virus dogma a "virus" requires host cells in order to replicate. I am not seeking records describing the replication of an alleged "virus" without host cells, or that describe a suspected "virus" floating in a vacuum or a strict fulfilment of Koch's Postulates, or private patient records."

6. The University responded on 20 October 2023. It stated that the requested information had already been addressed in previous requests and correspondence. The University advised that it was therefore refusing the request under section 14(1) of FOIA. The University added that it would no longer respond to requests or correspondence from the complainant related to Covid-19.
7. The complainant requested an internal review on 20 October 2023 and 13 November 2023. The University did not provide an internal review response.

Scope of the case

8. The complainant contacted the Commissioner on 23 January 2024 to complain about the way their request for information had been handled.
9. The Commissioner considers that the scope of his investigation is to determine if the University has correctly refused to respond to the request by virtue of section 14(1) FOIA.

Reasons for decision

Section 14(1) – vexatious requests

10. Under section 14(1) of FOIA a public authority is not obliged to comply with a request for information if the request is vexatious.
11. Broadly, vexatiousness involves consideration of whether a request is likely to cause a disproportionate or unjustified level of disruption, irritation, or distress.
12. To analyse vexatiousness, the Commissioner considers four broad themes that the Upper Tribunal (UT) developed in *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (ACC):
 - Value or serious purpose
 - Motive
 - Burden; and
 - Harassment to staff

13. The Commissioner will first look at the value of the request as this is the main point in favour of the request not being vexatious. He will then look at the negative impacts of the requests, that is, the three remaining themes of burden, motive, and harassment, before balancing the value of the requests against those negative impacts.

The University's position

14. The University has explained that it has received a number of requests from the complainant about reports and studies concerning SARS-COV-2. On 20 April 2021 and 17 May 2021, the University refused requests from the complainant under section 12 of FOIA (cost limit). On 5 April 2023 and 27 April 2023, the University refused requests from the complainant under section 40(5) (requester's own personal information) and 40(2) (third party personal information) respectively. On 1 June 2023, the University refused a refined request from the complainant relying on section 22 (intended for future publication) and 22A of FOIA (research exemptions).
15. The University has explained that it considered the complainant was using their request of 30 September 2023 to re-open matters previously addressed in its response of 1 June 2023 and internal review of 13 June 2023. In its response of 20 October 2023, the University stated:

"We responded to a previous request from you on 1 June relating to "studies or reports [...] describing the purification of SARs-COV-2".

I note that your current request and previous request share a focus on reports and studies held by [NAME REDACTED] in relation to SARS-COV-2.

We judge that the issue you raise in your new request, regarding the separation of the Covid-19 virus from the rest of the sample, has already been sufficiently addressed by our response to your previous request, by an internal review of that response, and also in subsequent correspondence you have had with University staff. As I judge that your new request seeks to re-open a matter that has been addressed, it would represent an inefficient use of University resources to continue to engage with this issue, and would divert resources from the University's core functions of learning, teaching and research. We do not feel it is in the public interest to provide responses to your requests without an acknowledgement of the scientific standpoint from which the University engages with the issues you raise, recognising that this appears to be different from your own view. To do so otherwise would be to risk our responses misleading, or being misconstrued by, the public. This is why we explained the scientific meaning of purification in

our previous response, and confirmed that the University does hold relevant studies and reports within this scope.”

16. Concerning motive, the University considers that the focus and wording of the request, and previous requests, was intended to obtain a specific response that would perpetuate the complainant’s arguments questioning the existence of the SARS-COV-2 virus and, in turn, portray the University in a negative light.
17. The University has highlighted that the complainant has focused their requests on the work of a particular professor at the University. The University considers that this could indicate a grudge against the professor in question. It explained that the complainant’s requests and correspondence focus on the studies and reports held by that particular professor rather than other researchers at the University who are also working on initiatives related to Covid-19. The University added that the complainant has also published material about the professor on their own website.

The complainant’s position

18. The complainant has stated that the request they submitted on 30 September 2023 is distinct from their earlier requests, and they dispute that the request is vexatious in nature.
19. The complainant explained that, as the University has previously advised that it could not provide a response to the earlier requests within the cost limit, the complainant had to refine their requests, and this is why the later requests focused on the work of a particular professor. The complainant added that the professor had referred to them in social media posts, and this prompted them to submit their requests to the University.
20. The complainant added that they had tried to complain to the Commissioner about the University’s previous refusal under sections 22 and 22A of FOIA as they did not agree with the University’s interpretation of their request. The complainant explained that they had waited too long to bring the complaint to the Commissioner on that occasion, so this is why they submitted a related but different request on 30 September 2023.

The Commissioner’s position

21. As set out above, section 14(1) is designed to protect public authorities by allowing them to refuse to comply with any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.

22. This will usually involve weighing the evidence about the impact on the authority and balancing this against the purpose and value of the request. This should be judged as objectively as possible; in other words, would a reasonable person think that the purpose and value are enough to justify the impact on the public authority.
23. Applying section 14(1) essentially removes the right of access by the requester to the requested information. The Commissioner therefore considers that the threshold to meet this is a necessarily high one. He expects public authorities to provide detailed explanations and justification regarding why it considers the request is vexatious.
24. The Commissioner acknowledges that the University has concerns about the motive, value and purpose of the complainant's requests, and that it has tried to offer explanation to verify the complainant's understanding of the information being requested. While the complainant's requests do appear to seek evidence that questions the existence of SAR-COV-2, this in itself is not vexatious, and could be seen to have value and purpose to the complainant.
25. In terms of the focus of the complainant's requests and correspondence being on the work of a particular professor, the Commissioner notes that the majority of the requests do name the particular professor. However he finds that it is not unreasonable for someone to direct their requests to a particular professor if it is known that they are working on a particular project or research subject.
26. The Commissioner has reviewed the timeline of requests and responses provided by the complainant, and the University, as part of this complaint case. He notes that although the complainant has submitted a number of requests, this has twice been prompted by the University advising the request could not be handled within the cost limit. One of the requests was made so that the complainant could obtain copies of previous correspondence with the University that had been lost. The latest request, addressed in this decision notice, was made after the complainant realised they were too late to bring a complaint to the Commissioner about the University's reliance on sections 22 and 22A of FOIA.
27. In terms of the number of requests and accompanying correspondence, the Commissioner does not find that there is a burden to the University in terms of volume. However, the Commissioner does acknowledge that the University had already explained that it held information within scope of the request and that it was intended for future publication as part of a research project.

28. The Commissioner is aware that the complainant has published information concerning the professor's work, and the responses received from the University on their website, and that the complainant and the professor have had exchanges on social media. However, he notes that the wording of the requests and accompanying correspondence with the University has been polite and would not necessarily cause distress or harassment to staff dealing with them.
29. Therefore, the Commissioner considers that the University has failed to demonstrate that the request is vexatious. His decision is that the University is not entitled to rely on section 14(1) to refuse to comply with the request.
30. The Commissioner requires the University to provide the complainant with a fresh response to the request which does not rely on section 14(1) of FOIA. He notes that the University has already advised the complainant that information within scope of their previous request is intended for future publication. If, upon reviewing this request, it is the case that the University still intends to publish the specific information that has been requested at a future date, it should confirm that in its response.

Right of appeal

31. 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

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

32. 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.
33. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Keeley Christine
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF