

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 September 2024

Public Authority: The Governing Body of the University of York
Address: Heslington
York YO10 5DD

Decision (including any steps ordered)

1. The Commissioner's decision is that the University of York ('the University') correctly applied section 14(1) of FOIA to the complainant's request for correspondence between named individuals, because the request is vexatious.
2. It's not necessary for the University to take any corrective steps.

Request and response

3. On 10 March 2024, the complainant wrote to the University and requested information in the following terms:

"Please send to me all of the emails sent and received between [redacted].

Please include emails whether or not the emails came from or went to University of York and Creative Industries Independent Standards Authority (CIISA) email accounts or not, however - please only include emails which were professional/academic in nature - for example, if they were to do with the Safe to Speak Up? Report or its associated launch event, or other such matters and so on. If emails were part personal and part professional/academic, please redact the personal material contained therein as necessary, rather than excluding the entire email.

Please also include any of the emails' attachments - again - only the professional/academic ones or parts thereof, redacting out anything personal, as above.

Please obviously ensure not to include anything such as an individual's personal account of abuse or any associated names.

Please go back only as far as 1st January, 2023."

4. The University's final position is that the request is vexatious under section 14(1) of FOIA.

Reasons for decision

5. This reasoning is focussed on the University's application of section 14(1) of FOIA to the complainant's request.
6. Under section 14(1) of FOIA a public authority isn't obliged to comply with a request for information if the request is vexatious.
7. Broadly, vexatiousness involves considering whether a request is likely to cause a disproportionate or unjustified level of disruption, irritation, or distress.
8. To analyse vexatiousness, the Commissioner considers four broad themes that the Upper Tribunal developed in *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (ACC):
 - Value or serious purpose
 - Motive
 - Burden; and
 - Harassment to staff
9. 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 request ie the three remaining themes of burden, motive, and harassment, before balancing the value of the request against those negative impacts.
10. In their complaint to the Commissioner the complainant summarised the points they'd raised in their request for an internal review. They dispute that, as the University has insisted, their request is, in effect, a request for the same information as that in a request that the Commissioner has

considered under a separate reference: IC-282929-F5J6¹. The complainant considers it's not the same request and that, even if it were, the current request "surely still would not rise to the level of vexatiousness in this case, all other things being considered."

11. The complainant noted that, in its correspondence to them, the University used words such as "harassment" and "obsessive," even though they had only sent them three FOI requests and one SAR. The complainant considers that the University's use of such strong words, "perhaps reflects a flawed rationale for their use of 14(1) from the beginning."
12. The complainant has gone on to note that in its internal review, the University used the line "In terms of causing disruption, distress, and harassment, it is clear you have concerns with the methodology of the study and the conclusions drawn."
13. The complainant considers that, "This should have nothing to do with it." Surely, says the complainant, "the lead author for an academic would expect for there to be feedback and that not all of it may be positive." The complainant's impression is that "they simply find being questioned annoying, but this of course does not automatically give them the right to invoke exemption 14(1), particularly as I have always conducted myself courteously, reasonably and proportionately in all my dealings with them."
14. In its submission to the Commissioner, the University confirmed its belief that this latest request simply attempts to circumvent its decision (later upheld by the Commissioner in IC-282929-F5J6) to withhold data relating to the 'Safe to Speak Up?' report under section 22A of FOIA (which concerns information intended for future publication).
15. The University notes that, in its response to the current request, it had made reference to the request destabilising the academic process and eroding the safe space needed for research to be conducted without external influence, scrutiny or disruption. The University told the Commissioner that although it had also advised the complainant that their "obsessive" correspondence would be likely to cause disruption and distress to its staff, it hadn't unpicked this in any detail. The University

¹ <https://ico.org.uk/media/action-weve-taken/decision-notice/2024/4028892/ic-282929-f5j6.pdf>

has provided the Commissioner with further detail about the circumstances of the current request. He doesn't intend to reproduce in this notice but considers that the University's concerns are valid.

16. As the University has noted, the request in IC-282929-F5J6 concerned the complainant's request for the 'Safe to Speak Up?' report and the Commissioner's decision, on 5 March 2024, was that section 22A was engaged.
17. On 10 March 2024, the complainant submitted the current request. The request is for emails of "a professional/academic nature" between named individuals. The complainant suggests, as an example, that the emails could be about the 'Safe to Speak Up?' report and should include attachments. This is the only example they give.
18. The Commissioner agrees with the University that the complainant is trying to circumvent the Commissioner's previous decision and to glean information about, and associated with, the report in question.
19. Communications about the report (and about any other "professional/academic" matter caught by the request) may have a value to the complainant, but this information is of little wider value. The Commissioner has balanced such value as the request has against the burden caused by the request, the motive that appears to be behind the request, and the harassment the request causes to University staff.
20. The University hasn't indicated that complying with the request would be an undue burden and the Commissioner has moved on to motive and harassment. Amongst other possible motivations not detailed here, one motive behind the request appears to be to circumvent the Commissioner's previous decision. And again, without going into detail, he considers that the request causes harassment to the University's staff, irrespective of the tone of the complainant's correspondence appearing courteous.
21. Having considered all the circumstances of the request, the Commissioner is satisfied that the negative effects of complying with the request outweigh the request's value. His decision is therefore that the request can be categorised as a vexatious request and the University correctly applied section 14(1) of FOIA to it.

Right of appeal

22. 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

23. 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.
24. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Cressida Woodall
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Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF