

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 June 2015

Public Authority: Student Loans Company
Address: 100 Bothwell Street
Glasgow
G2 7JD

Decision (including any steps ordered)

1. The complainant has requested information from the Student Loans Company ("SLC") relating to employees working at a contact centre in Glasgow.
2. The Commissioner's decision is that SLC has correctly applied section 14(1) of the FOIA to the request.
3. The Commissioner requires SLC to take no steps.

Request and response

4. On 17 October 2014 the complainant wrote to SLC and requested information in the following terms:

"Could you please provide a breakdown of the present number of Advisers based in the Glasgow contact centre in the following groups:

Group 1 – Advisors who can field both ICR (repayment) and SFE (Student Finance England) calls.

Group 2 – Advisors who can field ICR calls but who cannot field SFE calls

Group 3 – Advisors who can field SFE calls but who cannot field ICR calls

Please would you exclude any advisor either in the collections department or who is not currently in the role of fielding calls.

Could you also provide the number of advisers in group 1 in each paystep and their respective paysteps

Could you also provide the number of advisers in group 2 in each paystep and their respective paysteps

Could you also provide the number of advisers in group 3 in each paystep and their respective paysteps”.

5. SLC responded on 13 November 2014 and refused to comply with the request on the grounds that it was vexatious. It subsequently cited section 14(1) of the FOIA. Following an internal review, SLC maintained its previous decision.

Scope of the case

6. The complainant contacted the Commissioner on 24 February 2015 to complain about the way his request for information had been handled.
7. He specifically disputed SLC's application of section 14(1) to his request.
8. The Commissioner has had to consider whether SLC was correct to apply section 14(1) to the request.
9. It is important to note that the Commissioner has considered all arguments advanced by SLC and the complainant. However due to the background of the request, not all are referenced in this decision notice.

Reasons for decision

10. Section 14(1) of the FOIA states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.
11. The term "vexatious" is not defined in the FOIA. The Upper Tribunal considered the issue of vexatious requests in the case of *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

¹ UKUT 440 (AAC) (28 January 2013)

establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.

12. 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) the harassment or distress of and to staff. 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 request." (paragraph 45).

13. 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.
14. 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.

SLC arguments

15. SLC provided some background information into the request and previous ones that have been made by the complainant.
16. It explained that between March 2014 and March 2015, the complainant has submitted six requests for information under the FOIA. It further explained that four of the requests were for similar information (SLC

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http://www.ico.org.uk/~media/documents/library/Freedom_of_Information/Detailed_special_list_guides/dealing-with-vexatious-requests.ashx

contact centre pay broken down by skillset and paystep) and of which two were submitted under a pseudonym.

Would compliance with the request create a significant burden in terms of expense and distraction

17. SLC explained that the information requested would involve the data from two separate departments from within SLC to be combined, with the pay information having to be collated manually. SLC referred the Commissioner to a previous response to a similar request for information submitted by the complainant. SLC explained that in response, the majority of the information had been redacted due to low numbers involved and there was a risk that the individuals could be identified. Therefore section 40(2) was applied to some of the data.
18. SLC argued that despite this previous response, the complainant has submitted further requests for information knowing that a similar response would be issued. It stated that its HR and Hub Services would have to spend approximately 8.5 hours for each individual request, with the majority of the information requested not being released.
19. SLC explained to the Commissioner that whilst 8.5 hours may not seem a significant burden for any individual request, the departments that would be involved with the handling of the request are required to put their business-as-usual work on hold whilst they ensure that the information is provided within the statutory timeframes. SLC confirmed that it does not have any additional resources to cover the extra workload.
20. SLC argued that the complainant could have submitted a request for higher level information, which had previously been disclosed and would have been less burdensome for all of those involved in the collation of the information. However, SLC argued that despite knowing what SLC would be likely to release, the complainant deliberately chose to submit a request for individual paystep data.
21. SLC explained:

"Whilst the expense of responding to FOI request 210-14, taken in isolation, would not create a significant burden, when the history of the request and [redacted name] previous requests are considered, we are of the view that continuing to correspond with [redacted name], particularly in relation to requests for contact centre staff pay data, will have a detrimental impact on our staff, particularly where they are being asked to collate data that will not be released under the FOIA due to falling under the section 40(2)FOIA exemption".

22. SLC explained that alongside his information requests, the complainant has engaged with SLC Legal & Compliance and HR Departments on information rights issues that he considers have been breached. SLC considered that the time expended in dealing with the complainant's additional correspondence is not insignificant and has been submitted *"in a scattergun and erratic manner"*.
23. In SLC view, it considered that the complainant will continue to submit FOI requests as well as correspondence relating to his information rights. It further stated that their dealings with the complainant has caused significant disruption to SLC FOI Office/Legal & Compliance Department and business as a whole.

Is the request designed to cause disruption or annoyance

24. In its view, SLC believes that the complainant is deliberately submitting requests to cause disruption and annoyance to both the staff involved in dealing with the requests and the SLC's staff overall.
25. SLC explained that from the nature of the four requests submitted by the complainant, it would not be unreasonable to infer that he is not satisfied with a particular level of remuneration.
26. SLC stated that the complainant has made two requests using a pseudonym, which he admitted following identification by the FOI Office. SLC explained that whilst it is not clear why a pseudonym was used, it has speculated that it was used as the complainant believed the request would be answered differently under a different name.
27. SLC advised the Commissioner that on two previous occasions, it had informed the complainant that any future requests for contact centre staff pay information may be considered to be vexatious. However despite this, the complainant continued to submit further requests for information of this nature.

Whether the request has the effect of harassing the public authority or its staff

28. Taken in isolation, SLC considered that the complainant's request was not considered to be harassing SLC or its staff. However, it argued that *"when taken as part of the overall contact we have had with [redacted name], we are of the view that [redacted name] is pursuing a personal vendetta against a number of departments and individuals within SLC, particularly when [redacted name] has other mechanisms available to him"*

29. SLC confirmed that the complainant has made a number of informal complaints against members of staff who have sought to resolve concerns the complainant has. SLC explained that the concern it has is that if contact with the complainant continues, whether under the FOIA or otherwise, any member of staff who has dealt with the complainant, could be subject to a complaint.

The complainant's arguments

30. The complainant explained that in response to a request he made in March 2014, the information disclosed listed 83 advisors across the groups requested. He argued that the actual number of advisors employed at this time was believed to be in the region of 151. The complainant explained that due to this discrepancy, he made a new request and changed the group criteria in which he sought information on.
31. He also argued that SLC has a high turnover of contact centre advisor staff and therefore, even if the request he made in March 2014 was repeated or similar to the request set out at paragraph 4, the information would have likely to have changed within a 7 month period.
32. The complainant argued that SLC cannot issue a total restriction for repeated/similar requests, if the information has or is likely to have changed.
33. The complainant considers that his request has a serious purpose behind it. He explained that the main purpose behind the request was to obtain information on the structure of customer service adviser employees with the contact centre at SLC.
34. He further argued that the information provided in response to this request would be totally different to the data he received in response to his first request. He therefore believes that it was unrealistic for SLC to state that most of the data would be redacted and therefore futile.
35. The complainant also explained to the Commissioner that he firmly believed that the FOI office dealing with his request is viewing himself as vexatious rather than the request.

The Commissioner's view

36. When coming to a view, the Commissioner has referred to the judgement of the Upper Tribunal in *Dransfield* and specifically paragraph 45 of that decision, which states the importance of adopting a holistic and broad approach to section 14(1).

37. The Commissioner recognises that in some circumstances, the importance of the information that has been requested will outweigh any factors that support a public authority's application of section 14(1).
38. In this case, the Commissioner does not doubt that the requested information is important to the complainant. Objectively speaking, the Commissioner considers that the value of the information during the 7 month period between requests has not changed sufficiently enough to outweigh the burden and drain on SLC resources that would occur if it were to comply with the request. He further considers that there is little wider public interest in the requested information that would outweigh any factors to support the application of section 14(1).
39. The Commissioner has also taken into account the background and history of the complainant's contact with SLC. He considers that it is reasonable to assume that if SLC were to comply with the request, it is unlikely to satisfy the complainant and there is potential for it to lead to further correspondence and requests on the matter.
40. On this basis, the Commissioner is satisfied that SLC was correct to apply section 14(1) of the FOIA to the request.

Right of appeal

41. 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

42. 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.
43. 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
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