

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

### **Decision notice**

**Date:** 6 June 2023

**Public Authority:** Endeavour Learning Trust  
**Address:** Yewlands Drive  
Leyland  
Lancashire  
PR25 2TP

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

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1. The complainant has requested information about appointments to a senior role at Tarleton Academy, part of the Endeavour Learning Trust (the Trust). The Trust refused the request by referring to third party personal data. At internal review, the Trust cited section 14(1) of FOIA (vexatious request).
2. The Commissioner's decision is that the request was not vexatious.
3. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation.
  - Issue a fresh response to the complainant, which does not rely on section 14(1) of FOIA.
4. The public authority 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 the Act and may be dealt with as a contempt of court.

## Request and response

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5. On 21 February 2023 the complainant wrote to the Tarleton Academy and requested information in the following terms:

“Being a member of the public, I read with great interest a previous FOI request made referring to senior roles in ELT.

I would like to make a similar request, but with a smaller focus. I trust that as this is a new request, and that I am a different person to the previous requester, that I receive a new allocation of time to achieve this. I have also not made a request for a considerable amount of time.

Please list all appointments made for assistant headteacher, at Tarleton academy. Could these please be listed from 1st January 2016 - until the current day.

Please follow the following format: Date of Appointment | Advertised widely - other than trust website | no of candidates interviewed | Exit Date

Please note, I do not wish for: - Information about other schools - Personal details”

6. On 24 February 2023 the Trust said that it believed the email address the request had come from to be similar to a previous requester’s address. However, it accepted that the requester was a different person. The request was refused as exempt as it would breach data protection legislation.
7. On 3 March 2023 the complainant questioned the Trust’s comments about the similarities in the email address and the extent of the information provided in the earlier request that had been referred to. The complainant went on to query the Trust’s view that the requested information was exempt because it was personal data. They also suggested that they could:

“adjust the request, I require not the appointment date or exit date.

My request would ask for (in the previous time frame requested):

- interview date for position
- was a candidate appointed?
- was it advertised externally/internally?
- How many candidates were interviewed”

8. The Trust provided an internal review on 15 March 2023 in which it cited section 14(1) of FOIA – vexatious request. The review stated that the Trust believed the complainant to either be the same individual as the earlier requester or acting in concert with them.

## Scope of the case

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9. The complainant contacted the Commissioner on 2 April 2023 to complain about the way their request for information had been handled.
10. The Commissioner considers that the scope of his investigation is to consider the Trust's citing of section 14(1) of FOIA.

## Reasons for decision

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### Section 14 – vexatious request

11. 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.
12. The Commissioner has referred to his own guidance<sup>1</sup> and the submission provided to him by the Trust in making his decision.
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.

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<sup>1</sup> [Dealing with vexatious requests \(section 14\) | ICO](#)

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

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
- any harassment or distress (of and to staff).

16. The Commissioner has therefore considered whether the Trust is entitled to rely on section 14(1) of FOIA to refuse to provide the requested information.

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

17. The complainant made the following arguments to the Commissioner:

"From what I can tell, this is because someone else made a similar request, and they decided I was the same person, so rejected based on the same reason."

The complainant told the Trust that they were "unsure what you mean by this". They suggested that the email would end in a similar way to the previous requester's email as it had been made through an internet site where the addresses are autogenerated for privacy. After the internal review, the complainant contended that the Trust's view was based on the fact that the other requester used the same website and that they both used English. The complainant provided a link to their previous requests.

18. Their argument is that the request was made because they were -

"aware of how many assistant headteachers there had been during that time. I was interested in the process to recruit these, as there seemed to have been a substantial number of internal candidates for the position".

19. The complainant states that they are "not interested in identifying individuals, and pointed out that this information was freely available on their website". They contend that a page from the Trust's website regarding the senior leadership team had been removed but is available in archive, "After pointing out that this 'personal information' was already public and presumably with the individual's permission, they haven't not changed their stance."

20. After the internal review the complainant argued that "interview dates for a role, along with the amount interviewed would not count as personal information" unless only one person had been interviewed. They consider that whoever "had the role at a certain time had already been disclosed" or was in the public domain. The complainant made the assumption that the Trust had had permission to publish it and that it was "in a public archive".
21. They argue that most of the information has been provided in a different request but that they wanted it "in a more refined format" and could not understand why there was "such secrecy around the recruitment process, especially for a school. It's a common request made to organisations". The complainant's view is that it is in the "substantial public interest" to provide the information and it is in the interests of "Equality of opportunity and treatment".

### **The Trust's view**

22. The Trust provided some context and history to this request. It referred the Commissioner to a previous decision [IC-216732-Z7Y2](#) where the Trust had "received a similar request which pursued the same subject matter but with a wider scope". The Commissioner had agreed, in that instance, that the request was vexatious. The Trust provided some supporting documentation.
23. The Trust goes on to argue that this request -  

"should be considered in the context of the previous request and that there is a targeted effort to obtain the personal data of employees of the Trust who are not of a senior level and which would not be in the public interest to disclose."
24. It notes that the request is similar to the previous request, "albeit with some attempt to reduce the scope in an attempt to avoid the determination" that the requested information would be vexatious and/or exceed the cost limit. The internal review had noted a similarity in tone and the fact that although the request had narrowed the scope to one school, that school had been mentioned in the previous request.
25. The Trust has,  

"determined that due to the nature of the request, the tone adopted, the antagonistic nature and the use of a similar email address that it had cause to be believe that the requester was the same as the one in the Previous Request or someone working in concert with the original requester..."

The Trust asserts that the request suggests that the complainant “had a specific knowledge of the Trust” which it believes supports the idea that this was the same individual or someone acting in concert. It believes that the request is intended “to cause distress to the Trust’s employees” whose personal data they are trying to obtain. The Trust also notes that by making a request via an internet website a requester is allowed “to make a pseudonymised request and “allow the original requester to adopt a new persona”.

26. It determined that the request “was an attempt by the original requester to circumvent the applicable cost limit (which had been met in the Previous Request) by presenting as a new requester”. The Trust stated that this would be “a further drain” on its resources beyond what is required by the legislation.
27. The Trust argues that the request would have a detrimental impact and was a repeat of a previous request and had “the same underlying motive”. It describes the “significant amount of research” required for the first request but the requester still wants personal data. The Trust has determined that providing the information “would pose a serious risk to the principles under Article 5 of the UK GDPR”. It then goes on to make several points about the provision of what it believes is personal data and “would have resulted in such personal data being published on a public platform which adds to the gravity of the matter”.
28. The Trust contends that,

“the Requester admits to curiosity in the substance of the Previous Request rather than the request having any inherent purpose or wider value and on that basis the Request is wholly disproportionate and or unjustified”.

It questions the complainant’s motive and argues that the aim is “to cause distress to the employees of the Trust”. Its view is that there is “no substantial public interest to disclose the personal data of its employees in response to the Request”.

### **The Commissioner’s decision**

29. Firstly, the Commissioner has not considered whether the release of the requested information would disclose third party personal data because the Trust cited section 14(1) of FOIA in its internal review. He can only consider whether the request is vexatious.
30. The Commissioner’s view is that most of the Trust’s argument relies on a link with another requester that appears to be tenuous. His guidance states that -

“You need to have sufficient evidence to substantiate any claim of a link between the requests before you can go on to consider whether section 14(1) applies on these grounds. Some examples of the types of evidence that could support your case are:

- the requests are identical or very similar;
- you have received email correspondence in which other requesters have been copied in or mentioned;
- there is an unusual pattern of requests, for example a large number have been submitted within a relatively short space of time; or
- a group’s website makes an explicit reference to a campaign against your authority.

31. The request is similar to a previous request and the requester acknowledges that their request stemmed from a previous request from another individual. However, the Commissioner does not accept that the Trust has substantiated that there is a link, other than the complainant’s acknowledgement that their request had been prompted by the earlier request. The Commissioner notes that he had previously advised the Trust in [IC-216732-Z7Y2](#) that if it suspected a pseudonym was being used it could ask for ID. However, it would appear that the Trust had not done so regarding this request.
32. Neither does he consider the request to be “wholly disproportionate”. Leaving aside the issue of personal data, the request is narrow and would have involved the Trust in a fairly limited effort when considering the information that fell within scope and its response.
33. In cases where the issue of whether a request is vexatious is not clear cut, the key question to ask is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation, or distress.
34. There is a high bar for engaging section 14(1). In this instance, the Commissioner does not consider that the bar has been reached. The Trust has not produced enough supporting evidence that the request is vexatious, and therefore it is not entitled to rely on section 14 of FOIA in order to withhold the requested information.

## Right of appeal

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35. 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)

36. 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.
37. 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 .....**

**Janine Gregory**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**