

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 April 2024

Public Authority: The Governing Body of the Castle Church of England Federation

Address: The Thomas Coram School
Swing Gate Lane,
Birkhamsted
HP4 2RP

Decision (including any steps ordered)

1. The complainant has requested information about FOI requests/publications, safety protocols, and data protection services from the Thomas Coram School (the school). The school is one of the two educational establishments that have the Castle Church of England Federation as "the Governing Body [...] responsible for both schools in the Federation"¹. Under FOIA, the Castle Church of England Federation is the public authority. However, for the purposes of this decision notice 'the school' will be referenced throughout. The school refused the requests, citing section 14(1) of FOIA – vexatious request.
2. The Commissioner's decision is that the requests were vexatious under section 14(1) of FOIA.
3. The Commissioner does not require any steps as a result of this notice.

¹ [Castle Church of England Federation - Governing Body \(castlefederation.org\)](https://www.castlefederation.org)

Request and response

4. On 14, 26 and 27 September 2023 the complainant wrote to the school and requested information in the following terms:

14 September 2023 -

"I request that the following information is provided electronically:

- The total number of FOI requests made since 1st November 2018, or the specific date in November 2018, when your current Publication Scheme: Freedom of Information Act was issued
- The number of FOI requests made since 1st November 2018, or the specific date in November 2018, when your current Publication Scheme: Freedom of Information Act was issued, that specifically requested that the information was provided electronically
- The number of FOI requests made since 1st November 2018, or the specific date in November 2018, when your current Publication Scheme: Freedom of Information Act was issued, that were responded to electronically
- The number of FOI requests made since 1st November 2018, or the specific date in November 2018, when your current Publication Scheme: Freedom of Information Act was issued, that were responded to in hardcopy
- Copies of publication schemes, or equivalent FOI policies, that were in place prior to your current Publication Scheme: Freedom of Information Act being issued"

26 September 2023 -

"I request that the following information is provided electronically:

- Procedures/protocols to allow the collection of pupils from after school activities that were in place 11th June 2023.
- Procedures/protocols to allow the collection of pupils from after school activities that were in put in place after 11th June 2023.
- Procedures/protocols to allow visitors to access the school reception during the school day (08:35 – 15:25).

- Procedures/protocols to allow visitors to access the school reception after the school day (15:25 onwards).
- Details of the physical measures (doors, door locks, access controls, etc) used to control access to the school reception during the school day (08:35 – 15:25).
- Details of the physical measures (doors, door locks, access controls, etc) used to control access to the school reception after the school day (15:25 onwards).

27 September 2023

“Having previously been advised of their existence and your use of them, I request the following information to be provided electronically:

- Full trading details of the external provider from whom you currently buy in advice on data protection, or data protection officer services, from.
 - The amounts spent on their services each year since their appointment, or your first engagement with them.”
5. On 9 October 2023 the school responded, citing section 14(1) (vexatious request) to the requests above. The complainant asked for an internal review on 13 October 2023.
 6. The school wrote to the complainant on 3 November 2023 as part of its internal complaint process, rather than an internal review under the FOIA.
 7. On 15 December 2023 the school wrote to the Commissioner about an outcome which had apparently included “Freedom of information policy” and to “Review how we deal with FOI requests”. At that point it was unclear whether an FOIA internal review had taken place.

Scope of the case

8. The complainant contacted the Commissioner on 5 November 2023 to complain about the way their request for information had been handled. They disagreed with the school’s decision not to provide it.
9. The school emailed the Commissioner on 23 November 2023 and said it intended to carry out a review.
10. The Commissioner considers that the scope of his investigation is to decide whether section 14(1) of FOIA has been cited appropriately.

Reasons for decision

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 guidance², the submission provided to him by the school and the complainant's view 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")³. 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
 - any harassment or distress (of and to staff).
16. The Commissioner has therefore considered whether the school is entitled to rely on section 14(1) of FOIA to refuse to provide the requested information.

² [Dealing with vexatious requests \(section 14\) | ICO](#)

³ <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

The School's view

17. The school stated that the decision to not supply information in respect of these requests was on "vexatious grounds". It cited the "various different requests made" but "does not then include the subsequent complaints [it] had after the freedom of information requests".

18. Having looked at the Commissioner's guidance, the school quoted the following:

"Section 14(1) is designed to protect public authorities by allowing you to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress."

It then moved on to the four broad themes outlined in paragraph 15 of this decision.

19. Burden

In its refusal notice to the complainant, the school had determined that "the breadth of information that you are requesting creates a grossly, oppressive burden on the administrative staff at the schools". The school refers to 17 overlapping requests that were received between 14 and 27 September 2023. They were looked at individually by the small team of administrative staff...alongside the Headteacher". They contend that this "was a strain on resources" that "got in the way of delivering mainstream services and answering legitimate requests". The Commissioner notes that this figure includes an earlier request on 6 September 2023 requesting information about staff members, procedures and protocols.

20. Motive

The school's refusal notice stated that the requests were "vexatious by drift" and that there was no "willingness to engage with our reasonable offers to assist in resolving this issue". In its response to the Commissioner, the school refers to his guidance about personal grudges and targeting correspondence towards a particular employee or office holder and provided some confidential argument to underpin that view. The refusal notice had said:

"The circumstances of each request have been carefully considered, and due to what we believe to be a personal grudge around previous decisions made by one of our schools, you are now asking for frequent and overlapping requests..."

21. Value or serious purpose of the request

The school contends that these requests have no serious value or purpose to the wider public interest and that it had responded to the first requests made on 6 September 2023 and that this response had already answered the requests that are the subject of this decision notice. They believe that the purpose is to be “annoying, disruptive or have a disproportionate effect on a public authority”.

22. Harassment or distress (of or to staff)

The school contends that the “frequent and overlapping requests and the nature of the requests caused extreme stress to the staff dealing with the requests...” The complainant had made a formal complaint which had been considered by an independent complaint panel. In this instance, because of “the persistent and targeted contact from the complainant to our governors we had to draft in independent external governors”.

23. It then provided some evidence by way of context and history. and referred again to matters that cannot be included in this decision. However, the Commissioner has taken them into account in his decision.

24. The school reiterates the frequent overlapping requests and stated that it had responded in a timely manner to the 6 September 2023 requests referred to in paragraph 21, only exempting some personal data under section 40 of FOIA. It argues that frequent extensive and repeated requests were requested before the previous one had been responded to. The school states that it has spent more than 100 hours “discussing, preparing and writing information for this complainant” which it does not consider to be reasonable. The school has also provided some email correspondence in support of its citing of section 14(1).

The complainant’s view

25. Firstly, the complainant believes that “there is clear evidence that, whilst they both state that they are, neither Thomas Coram, nor Victoria [school], are actually being advised by the DPO [data protection officer] that they share”.

26. The complainant attached two letters they had received from the school on 11 December 2023 and 19 March 2024 that they argue undermine the section 14 decision. The focus of the 11 December 2023 letter was not FOIA but it was referred to and the complainant’s contention is that the extract below undermines the school’s reliance on section 14:

“Complaint partially upheld. It was felt that although your requests were extensive, the school determined quite early that it would not provide any further information to you.”

27. The complainant also quoted from a letter that was written to them on 19 March 2024, that reiterated an earlier apology concerning the complainant's communications being vexatious.

The Commissioner's decision

28. Although the Commissioner accepts that a number of hours has been occupied in dealing with these requests the school has not cited section 12 but rather section 14 which has a high bar if it is to be considered as "grossly oppressive".
29. The Commissioner is mindful of the legislation not being undermined by vexatious FOI requests. He has therefore taken into account the number of requests made within one month. The Commissioner has also borne in mind his guidance⁴ to complainants that "You should not make requests as a way of 'punishing' a public body if you think they have done something wrong." He accepts that the requests were partly motivated by a serious intent and the email exchanges between the complainant and the school are polite. However, there was a drift into requests where the focus had shifted. Ultimately the Commissioner is not persuaded that the value and serious purpose of the requests outweighs the difficulties there can be when compliance with the FOIA absorbs staff time and resources in a small public authority.

⁴ [How to access information from a public authority | ICO](#)

Right of appeal

30. 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

31. 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.
32. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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