

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 July 2024

Public Authority: The Board of Governors of the University of Manchester

Address: University of Manchester
Oxford Road
Manchester
M13 9PL

Decision (including any steps ordered)

1. The complainant has made multiple requests for information to the University of Manchester ('the University'). The University refused all the requests, citing section 14(1) (vexatious requests) of FOIA.
2. The Commissioner's decision is that the University was entitled to refuse requests two to five as vexatious. It has failed, however, to demonstrate why request one is vexatious.
3. The Commissioner requires the University to take the following steps to ensure compliance with the legislation.
 - Provide a response to request one that doesn't rely on section 14(1).
4. The public authority must take these steps within 30 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

5. Between 26 September 2023 and 5 November 2023, the complainant made five requests for information. These requests are outlined in an annex to this notice.
6. The University responded to all of the requests on 10 November 2023. It refused all the requests under section 14(1) (vexatious).
7. The complainant requested an internal review on 10 November 2023.
8. The University provided its internal review outcome on 7 March 2024, upholding its previous position.

Scope of the case

9. The complainant contacted the Commissioner on 24 January 2024 to complain about the way their request for information had been handled.
10. They dispute the University's application of section 14(1), noting that 'The existence of a political campaign that has interest in the requested information does not in any way fall under the section on campaigns in the guidance, which clearly defined campaigns to be those that are deliberately targeted with the intention of overloading FOI requests.'
11. The Commissioner considers that the scope of his investigation is to determine whether the University was entitled to refuse all of the requests under section 14(1).

Reasons for decision

Section 14(1) – vexatious requests

12. This decision notice concerns section 14 of FOIA. Details of this section of FOIA can be found in the Commissioner's [decision notice support materials](#).
13. The Commissioner's [guidance](#) makes it clear that, if a public authority believes that several different requesters are acting together as part of a campaign to disrupt the organisation by submitting a large amount of requests, then this can be taken into account when determining whether any of those requests are vexatious.

14. This is the University's position. It has explained that it believes the complainant is affiliated with another individual, both of whom were 'known to be part of a campaign which led to Student occupations of several buildings within the University of Manchester from 16 Feb 2023 which were related to issues with rent costs and cost of living.'
15. The University has drawn the Commissioner's attention to information in the public domain (which the Commissioner doesn't intend to include in this notice) which identifies the complainant as a driving force behind the campaign. The campaign group encourages individuals to cause the University disruption in the effort of achieving its aims.
16. This is the campaign that the University refers to in its refusal notice and internal review outcome, rather than any 'defence campaign' that, as discussed in paragraph 9, might be the subject matter of some of the requests.
17. The campaign group's tactics have included physically occupying University property which the University says has resulted in the complainant's eviction by bailiffs and disciplinary action for trespassing. There has also been an incident, involving the complainant, where they have been covertly recording University staff in meetings despite expressly being told they couldn't do so.
18. The University has explained therefore that it's considering the five requests of the complainant's, alongside the 32 requests (22 of which were responded to in full) submitted by the aforementioned individual since the start of the campaign in question, when considering whether the requests are vexatious.
19. Specifically, the University has identified that some:

"requests are direct repeats of (redacted's) requests, or parts thereof, and that the two know each other and are part of the same campaign group, then those requests at least are by definition vexatious as the requestor already knew that they have been characterised as such when submitted by a campaign colleague."
20. The University has elaborated that:

"(The complainant) started to submit FOI requests on 28 October, the day after the s.14 notice was issued to (redacted). Given the known relationship between the two, the timing and the similarity of several of the requests we considered that (the complainant) was attempting to continue the campaign of disruption started by (redacted)."
21. The Commissioner notes that request one predates 28 October 2023 and is also on a different subject matter to requests two – five.

22. The Commissioner's guidance also makes it clear that, when considering whether a request is vexatious, it's important that a public authority takes into account the context and history in which the request(s) are made, particularly if there has been previous contact between the requestor and the public authority.
23. The University has explained that, upon eviction from the building that was being occupied, members of the campaign group, including the complainant, all submitted subject access requests and requests for relevant CCTV footage.
24. The University has made it clear to the Commissioner that, whilst these requests haven't been characterised in the public domain as a deliberate attempt to cause disruption, that compliance with the aforementioned requests has been incredibly burdensome.
25. An individual has the right to request official recorded information under FOIA and request their own personal data under the Data Protection Act 2018. These are separate and distinct rights and the Commissioner considers it reasonable that if any individual is evicted from a physical location, they would want to know why. Such requests aren't without serious value or purpose.
26. It's very important, when considering the context and history of a requestor's previous contact with a public authority, that the public authority doesn't fall into the trap of categorising the requestor as vexatious, rather than individual requests.
27. Whilst requests under the Data Protection Act 2018 may be relevant in assessing motive behind an FOI request, in this case such requests seem targeted and in response to a specific incident. They don't follow the same scattergun pattern as requests two to five.
28. However, the issue at hand here is whether the serious value and purpose of the requests in question outweigh the burden and disruption compliance would cause the University. In considering this, the Commissioner thinks it's important to take into account the entirety of the complainant's (and other members of the campaign's) relationship with the University: a significant period of which has seen them involved in a campaign designed to cause disruption and administrative burden.
29. In *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (ACC), the Upper Tribunal found that it wasn't 'necessary for the requests to be on more than the same broad subject for them to be relevant to the consideration of vexatiousness.'

30. Rather, the public authority needs to consider the requests holistically and weigh up the disruption and value of the requested information with the distress and burden compliance with the requests would cause.
31. First, the Commissioner has considered requests two – five, all of which have an overarching theme. The University has explained that:

“(One request) on it’s own a very large request. It asks for data on 18 different companies with 5 request parameters for each company and a large catch all final question to encompass other companies not mentioned in the initial request. Similar (and smaller) requests have been refused by the University in the past as being likely to take (much) longer than the 18 hour limit. If we did not consider the requests to be vexatious therefore the bulk of them would still be likely to be refused under section 12.”
32. The requests aren’t without serious value or purpose. Neither is request one, which concerns industrial action ongoing at the University.
33. However, the Commissioner is satisfied that the University has presented sufficient evidence to demonstrate that requests two to five are the work of individuals working in pursuance of a campaign, with the aim of causing the University disruption and burden.
34. These requests repeat previous requests from another individual known to the University, which had already been refused as vexatious. These requests were submitted in the immediate time period following this refusal. For that reason, the University was entitled to refuse the requests under section 14(1).
35. However, the University’s arguments in relation to section 14(1) appear to only relate to requests two to five. Request one was submitted a month prior to the pattern of behaviour that the University is concerned with and concerns a different subject matter entirely. To the Commissioner, this request doesn’t appear indicative of the pattern of behaviour with which the University is concerned and the University has failed to explain how request one is a continuation of the work of another individual.
36. Request one would also be less burdensome to deal with and holds serious value and purpose. For that reason, the Commissioner isn’t convinced it’s vexatious and has ordered the steps outlined in paragraph 3.

Right of appeal

37. 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

38. 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.
39. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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

Annex

Request 1 - 26 September 2023

1. How many staff were subject to deductions due to the marking and assessment boycott?
2. What was the total amount of money deducted?
3. How many postgraduate students, in their capacity as staff, have been subject to pay deductions?
4. What was the total amount of money deducted from postgraduates?"

Request 2 - 28 October 2023

"For the below FOI, the "BDS List" consists of:

HP,

Siemens,

AXA,

Puma,

SodaStream,

Ahava,

Sabra

1. How much money is paid or received by the University in relation to its partnerships with Tel Aviv University and the Hebrew University of Jerusalem, in the last five financial years.
2. Is there an exchange program to either of the two universities mentioned in question 1, and if so, how many UoM students participate in it each year, for the past five academic years
3. Does the University have any regular procurement contracts with any companies on the BDS list that are still in effect. List the contracts and their purposes and the value of the contracts, by year, over the last five financial years
4. In addition to anything in question 2, have there been any procurement deals with any company on the BDS List, within the last five financial years. If so, name the company, the purpose of the contract, dates and value of it

5. List any companies on the BDS List been invited to or participated in UoM careers fairs in the past year

6. List how much money UoM has in financial investments in the companies on the BDS List, in addition to other companies such as: HSBC, Barclays, General Motors, BAE Systems, Elbit, Raytheon

7. Does the University or its subsidiaries operate any bank accounts using Barclays or HSB.”

Request 2 – amended on 5 November 2023

“Apologies, but due to recent events, I would like to expand the scope of my FOI Request. I recognise that this might mean that the 20 working day count resets, and that is acceptable to me The new BDS List consists of:

HP,

Siemens,

AXA,

Puma,

SodaStream,

Ahava,

Sabra,

Elbit Systems,

HD Hyundai,

Volvo,

Caterpillar,

JCB,

Google,

Amazon,

Airbnb,

Booking.com,

Expedia, RE/Max,

Barclays,
CAF,
Chevron,
HikVision,
TKH Security,
McDonalds,
Burger King,
Papa John's,
Pizza Hut,
Domino's,
WIX."

Request 3 – 28 October 2023

"In the below request, the phrase 'defence sector companies' relates to, but not limited to:

BAE Systems,
Airbus,
Boeing,
Versarien,
Elbit,
Rafael,
Israel Aerospace Industries,
Rolls Royce,
GKN,
Smiths Group,
Cobham,
VT Group,

General Dynamics,
General Electric,
General Motors,
Halliburton,
L3 Communications,
Northrup Grumman,
Raytheon,
IMI Systems,
Plasan Sasa,
RADA Electronic Industries,
Caterpillar.

The request also refers to any defence sector companies that the University has more than £1 million worth of funding relationships with

Could you please provide:

1) The total amount, in pounds sterling, that the university has received in research funding from defence sector companies in the last five financial years. Details should be broken down for each company and by department if possible, year-by-year for the last five financial years.

2) The total amount, in pounds sterling, that the university has received in the form of industrial consultancy and industrial research fees from defence sector companies in the last five financial years.

3) The total amount, in pounds sterling, that the university has received in research funding from the Ministry of Defence over the last five financial years. Details should be broken down, year-by-year for the last two financial years.

4) The total amount, in pounds sterling, that the university has received in the form of industrial consultancy and industrial research fees from the Ministry of Defence over the last two financial years.

5) A list of all projects or consultancies taken in partnership or funded by any of these companies in the last five years, listing how much funding was received for each project, the title of the project and the type of the project.

6) A list of any other defence sector companies not listed that the University has financial dealings with, in the last five years, with the corresponding value of those dealings."

Request 4 - 28 October 2023

"In the below request, the phrase 'defence sector companies' relates to, but not limited to:

BAE Systems,

Airbus,

Boeing,

Versarien,

Elbit,

Rafael,

Israeli Aerospace Industries,

Rolls Royce,

GKN,

Smiths Group,

Cobham,

VT Group,

General Dynamics,

General Electric,

Halliburton,

L3 Communications,

Northrup Grumman,

Raytheon.

The request also refers to any defence sector companies that the University has more than £1 million worth of funding relationships with

Could you please provide:

1) The total amount, in pounds sterling, that the university has received in research funding from defence sector companies in the last five financial years. Details should be broken down for each company and by department if possible, year-by-year for the last five financial years.

2) The total amount, in pounds sterling, that the university has received in the form of industrial consultancy and industrial research fees from defence sector companies in the last five financial years.

3) The total amount, in pounds sterling, that the university has received in research funding from the Ministry of Defence over the last five financial years. Details should be broken down, year-by-year for the last two financial years.

4) The total amount, in pounds sterling, that the university has received in the form of industrial consultancy and industrial research fees from the Ministry of Defence over the last two financial years.

5) A list of all projects or consultancies taken in partnership or funded by any of these companies in the last five years, listing how much funding was received for each project, the title of the project and the type of the project.

6) A list of any other defence sector companies not listed that the University has financial dealings with, in the last five years, with the corresponding value of those dealings."

Request 4 - 2 November 2023

"Please provide a full list, with title and description, if possible, of ongoing projects carried out involving the GEIC, that involve collaboration or partnership with GKN or GKN Aerospace. For any such projects identified, please give their monetary value, if any."

Request 5 - 2 November 2023

"Please provide a full list, with title and description, if possible, of ongoing projects carried out involving the GEIC, that involve collaboration or partnership with Versarien. For any such projects identified, please give their monetary value, if any."