

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 September 2024

Public Authority: Governing Body of Ormiston Academies Trust
Address: One Victoria Square
Birmingham
B1 1BD

Decision (including any steps ordered)

1. The complainant has requested information about the possible existence of indecent material on Ormiston Academies Trust's systems. Ormiston Academies Trust ('the Trust') relied on section 14(1) of FOIA (vexatious request) to refuse the request.
2. The Commissioner's decision is that the request was vexatious and therefore the Trust was entitled to rely upon section 14(1) of FOIA to refuse it.
3. The Commissioner does not require further steps.

Request and response

4. On 7 February 2024, the complainant wrote to The Trust and requested information in the following terms:

"FOI1 – Does or has the Trust ever discovered indecent material on their systems?

FOI2 – If the answer is yes has the Trust reported the matter to the police? (NB I have reported to Norfolk Police that the Trust claims to have been in receipt on their systems)

FOI3 – If the answer to (FOI1) is yes and the answer to (FOI2) is no then does the Trust still hold the indecent material they claim to have discovered on their systems?

NB I understand the deletion of indecent material without reporting it to the police could be seen as destruction/concealment of evidence."

5. The Trust responded on 9 February 2024. It stated that it was refusing the request under section 14(1) of FOIA as it considered the request to be vexatious.
6. Following an internal review, the Trust wrote to the complainant on 19 April 2024. It upheld its position.

Scope of the case

7. The complainant contacted the Commissioner on 29 May 2024 to complain about the way their request for information had been handled.
8. The Commissioner considers that the scope of his investigation is to determine whether the Trust was entitled to refuse the request as vexatious.

Reasons for decision

Section 14(1) – vexatious requests

9. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
10. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s updated guidance on section 14(1)¹ states, it is established that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
11. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
12. However, 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.

¹ <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

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*")². 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. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. It stated:

"all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA" (paragraph 82).

The Trust's view

17. The Trust has explained that in the introduction to the request of 9th February 2024, the complainant stated: "On the 10th May 2023 the Ormiston Academies Trust reported that they held indecent material on their systems that they claimed originated from myself and requested me to stop sending such material." The Trust explained that while the word 'indecent' was used in the letter, it was within a broad description of the types of correspondence that would lead to the Trust taking further action. It added that the letter was in reference to the harassing

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

and confrontational nature of the complainant's correspondence, not provision of indecent material.

18. The Trust has provided the Commissioner with a copy of the letter in question and the Commissioner notes the following paragraphs:

"Whilst the Trust takes complaints and concerns very seriously and is committed to fully investigating them, along with complying with its legal duties in respect of any information requests received, please be in no doubt that it will take legal advice and/or contact the police in response to any behaviour that it considers defamatory, indecent, threatening or harassing.

We therefore strongly encourage you to cease to make any such further comments and to deal with the Trust and the individuals connected with the Trust with courtesy and respect so as to avoid the need to take formal action against you."

19. The Trust considers that the request was specifically motivated to pursue a personal vendetta and therefore deemed it to have no serious purpose or value other than the complainant's own interests.
20. The Trust provided the Commissioner with a timeline of requests and correspondence received from the complainant. It explained that since 2018 the complainant had submitted 76 FOI requests, 21 internal review requests, 15 subject access requests and 14 service complaints.
21. The Trust stated that there has also been a large volume of other communications from the complainant. It added that there has been a number of communications that have been of an adversarial nature, and at times have caused the Trust concern. The Trust gave examples where the complainant had threatened to make reports to the police, regarding both the Trust as a body and an individual member of staff for allegedly making false accusations and malicious communications. It also stated that the complainant had investigated the personal contact details of a member of staff and subsequently used the information to make an FOI request.
22. The Trust has explained that the complainant's requests have caused distress and worry for staff, particularly when complaints are submitted or threatened to be submitted to external regulatory bodies.
23. The Trust added that the communications with the complainant have placed a significant burden on its staff. It stated that from August 2022 to date, the Trust has exchanged approximately 120 emails with the complainant and that due to the way they are structured, the requests often require considerable time to decipher what the requested

information is. The Trust added that this has been exacerbated in recent months as the complainant has taken to sending requests directed to more than one body at once in the same email.

24. The Trust added that the nature of the communications has led it to seek legal advice, which has constituted a significant outlay of funds for the Trust, spanning several years. It also stated that the burden of the requests has diverted resources and attention away from the Trust's stated aim which is to provide education services.

The complainant's view

25. In their complaint to the Commissioner, the complainant has stated that the Trust has made a number of allegations against them, including that they had sent indecent material to the Trust. The complainant referenced the Trust's letter of 10 May 2023 and stated:

"They then went on to state "We therefore strongly encourage you to cease to make any such further comments". That follow on statement implies they believe they have evidence of such comments as was not a warning to not make them but to cease to make them. One of the more serious allegations was that I had sent material that they considered was indecent."

26. The complainant explained that they have made a number of requests and complaints to the Trust following safeguarding concerns, and that these concerns have resulted in false allegations and threats of legal action being aimed at the complainant.

The Commissioner's position

27. In cases where a public authority is relying on section 14(1), it is for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.
28. The Commissioner will first consider the burden of the request on the Trust. The request does not appear particularly burdensome in isolation, however, when considered in context of the complainant's other requests and their regular correspondence to the Trust, the cumulative burden can be seen. The Commissioner also acknowledges the Trust's comment about the way that the requests are structured, in this case written as a group email to a number of organisations.
29. When considering the motive of the complainant, the Commissioner acknowledges that the original reason for the complainant's requests to the Trust, and their ongoing persistence in continuing to make requests, has a serious purpose and motive. However, from the information

provided, it appears to the Commissioner that the relationship between the complainant and the Trust has broken down to a point where the communication is no longer productive. The Trust has stated that it thinks the complainant is trying to catch it in a lie, and that in this particular request the complainant appears to be picking up on elements of correspondence to claim that the Trust is making false accusations about them.

30. In this case, the complainant's concern focuses on the idea that they have sent indecent material to the Trust, and their desire to prove that this is not the case. The Commissioner notes that in the Trust's letter of 10 May 2023, it advises the complainant that it was writing to them as it considered their correspondence to have become "harassing and confrontational in nature". It then went on to warn of the types of behaviour it considered inappropriate, indecent being one type mentioned. The Commissioner does not consider that in this comment the Trust is saying that the complainant has sent it indecent material. The Commissioner also considers that the Trust's advice to "cease to make any such further comments" can be seen to refer to the harassing and confrontational nature of the correspondence previously mentioned in the opening paragraph of the letter. The Commissioner notes that this could simply be a misunderstanding on the part of the complainant, but it does appear to have been used as an opportunity to confront the Trust.
31. The Commissioner notes that the language used in the request itself is not abusive in nature. However, he notes that the tone of the remainder of the email content is challenging and accusatory.
32. In terms of distress caused to Trust staff, the Commissioner can understand that the volume, frequency and subject nature of the complainant's requests could be seen to have become adversarial. The Commissioner notes the Trust's comments about some of the requests being focused on particular staff members and threats of reporting some staff members to the relevant regulatory bodies. He agrees that this would cause distress.
33. Having considered the particular circumstances of this case, the Commissioner is satisfied that, although the complainant originally had a serious purpose and motive for making a number of requests to the Trust, their requests and correspondence with the Trust over time appear to have developed into a personal campaign causing burden and distress to Trust staff.
34. The Commissioner therefore finds that the Trust was entitled to rely on section 14(1) of FOIA to refuse the request because it was vexatious.

Right of appeal

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

Website: 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.

Keeley Christine
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