

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 October 2024

Public Authority: Anthem Schools Trust
Address: Highbridge House
16-18 Duke Street
Reading RG1 4RU

Decision (including any steps ordered)

1. The Commissioner's decision is that Anthem Schools Trust ('the Trust') is entitled to refuse the complainant's request for information about special educational needs and disability support under section 14(1) of FOIA. The request can be categorised as a vexatious request, and it was submitted as part of a campaign against the Trust.
2. The Trust is also entitled to refuse the request under section 12(1) of FOIA as complying with it would exceed the appropriate cost limit. There was no breach of section 16(1), which concerns advice and assistance.
3. It's not necessary for the Trust to take any corrective steps.

Request and response

4. The complainant made the following information request to the Trust on 28 January 2024:

"I am making a request under the Freedom of Information Act.

The information I am requesting is:

All emails and correspondence between the SLT of [redacted] and Executives of Anthem relating to the SEND support, provision, financial

planning, and funding of support for children with SEND from October 2022 to current date”

5. The Trust issued a refusal notice on 28 February 2024, refusing the request under section 12 and section 14 of FOIA.
6. Following its internal review, the Trust maintained its reliance on section 12 and section 14 and indicated that it considered that the complainant’s request was part of a campaign.

Reasons for decision

7. This reasoning covers the Trust’s application of section 14(1) or section 12(1), or both, to the complainant’s request.

Section 14(1) – vexatious request

8. Under section 14(1) of FOIA a public authority such as the Trust can refuse to comply with a request if the request is vexatious.
9. Broadly, vexatiousness involves considering whether a request is likely to cause a disproportionate or unjustified level of disruption, irritation, or distress.
10. In some cases, a public authority may believe that several different requesters are acting together as part of a campaign to disrupt the organisation by the sheer weight of FOIA requests they’re submitting. The public authority can take this into account when determining whether any of those requests are vexatious.
11. In its submission to the Commissioner, the Trust has provided the following background. It says a campaign started at the beginning of February 2023, when the Anthem Community Council (ACC) members at a particular school and the school’s Senior Leaders (SLs) submitted a formal request for the school to leave Anthem Schools Trust and instead join another Trust.
12. The Trust was told this request to leave was made on behalf of a group of parents. Three parents associated with the school are Trustees at the other Trust.
13. The Trust says it took this matter very seriously. Several meetings were held within the following days between ACC members, school SLs, members of the Anthem Executive Team and the Anthem Chair of Trustees to discuss the matter. The request to leave Anthem wasn’t granted.

14. On 20 October 2023, the former Chair of the ACC at the school wrote to the Anthem Members, requesting a new meeting to discuss the school leaving Anthem. The letter also advised that a meeting with the Department for Education (DfE) Regional Director for Anthem and the DfE Regional Director for London had also been requested to try and move the request forward externally.
15. The Anthem Chair of Trustees responded to the letter to advise that the matter had already been dealt with in the spring term and that the school wouldn't be leaving Anthem.
16. On 14 November 2023, a total of five school parents and carers sent a letter to all Anthem Trustees requesting a meeting to discuss their issues with the school and the Trust.
17. In its submission the Trust has then detailed a series of meetings, communications, and discussions between different parties, including DfE, that occurred during November and December 2023 about the school leaving the Trust. During this period, the Chair of Trustees asked parents and carers not to cause undue upset to school staff or others from the Trust by involving them excessively in the discussion and repeatedly sending letters, and to be kind and thoughtful in their actions and words.
18. At a Full Board on 12 December 2023 the Anthem Trustees agreed again that the school wouldn't be leaving Anthem to join the other Trust.
19. The Trust says that the "campaign" continued with more parents raising issues and writing in to the Trust. The campaign appeared to be being led by a small group of parents who, it appeared, were holding parental meetings and co-ordinating the campaign. Within this core group were the parents who were also Trustees of the other Trust.
20. During this period, the Trust says, it had to invest significant time in trying to settle the school staff and the school community to ensure that the school was still being run smoothly.
21. Between 7 December 2023 and 13 December 2023, a total of 108 school parents and carers (one of whom was the complainant) emailed the Anthem Chair of Trustees, the Anthem CEO, and the Anthem Associate Director of Education for the school to raise concerns about the Trust. The Trust says it acknowledged all those emails and letters during that week.
22. According to the Trust, these emails and letters seemed to follow a script as they were very similar in format and the wording used in lots of sentences and paragraphs was identical on most of them. The majority of those emails and letters started with the following sentence:

- "I understand that you are aware of the situation at [redacted] School. I wanted to take the opportunity to share my own views and experience of the school as a parent."
23. Then, the parent or carer provided a little bit of information about their children attending the school and the reasons why they chose the school.
 24. The Trust says that lots of parents and carers continued by praising school staff members and expressing their gratitude to them. Further on in their emails and letters, the parents and carers started talking about their growing concerns about "how Anthem Trust is eroding the core values of the school."
 25. Parents and carers expressed a number of concerns which, according to them, appeared to be the result of financial decisions made by the Executive and Trustees of Anthem.
 26. The main concerns that all parents and carers raised were around the following themes:
 - Scheme of Delegation and School Budget
 - Staff shortage/high turnover
 - Change of the Curriculum
 - German Provision
 27. A few parents and carers also raised concerns about:
 - Geographic Challenges
 - Lack of provision for music
 - Longer term financial management concerns
 - Heating issues last year
 - SEND Provision
 28. In the view of these parents and carers, Anthem was ultimately responsible for the education, governance, operations, and professional development of its schools and that was the reason they were contacting the Trust directly. They wanted to know how Anthem was going to address all those concerns and provide reassurances.
 29. The complainant was one of those who wrote to Anthem to raise concerns. The Trust has provided the Commissioner with the text from their letter, and it has noted that the letter doesn't concern SEND provision or funding at the school or the whole Trust. That's relevant to this case.
 30. The complainant submitted their request to the Trust in January 2024 and the Commissioner's focus must be on the situation as it was at the

time of the request. That notwithstanding, he's noted the further detail the Trust has provided about communications and meetings that took place during the first three months of 2024. The Trust says that "At this time this parental campaign was taking up significant resource by Trust and school staff."

31. By this time, some of the 108 complaints submitted in December 2023 had been escalated to Stage 4. A hearing was held in June 2024. Most of the complaints weren't upheld, two were upheld and two were partially upheld.

32. In its conclusion, the complaint panel advised,

"...it has become apparent to the panel that a significant portion of the complaints raised have been part of a coordinated campaign by a small group of parents. While we acknowledge their concerns, we believe that this approach is no longer constructive and must come to an end.

It is time for all parties to look to the future and focus on working together in a collaborative and supportive manner. The school and Anthem must be allowed to operate effectively, making decisions that prioritise the best interests of the children..."

33. As well as dealing with the 108 complaint emails and letters received at the beginning of December 2023, the Trust says it also received chasers (some with sarcastic comments), numerous emails requesting a forum with all school parents and carers and Anthem, and lots of emails including about the 'Coffee & Connect' (C&C) sessions that had taken place.

34. Some of the emails were sent to the Trust out of office hours, including late at night and staff mental health was impacted. The Trust says that the campaign was a very stressful time for many of its staff.

35. From mid-November 2023 to the beginning of March 2024, the Trust says it also received numerous requests for information from some of these school parents and carers; some were made "under the Academy Trust Handbook" and others under FOIA. The Trust has provided the Commissioner with copies of those requests.

36. The Trust has confirmed that it considers this large number of complaints and requests for information that it received are part of a campaign by some school parents and carers against Anthem Schools Trust. It believes that the only purpose for those requests for information was to obtain details and data to be used against the Trust and to try to be disruptive. They weren't genuine requests for information for genuine constructive purposes.

37. The Trust says it's aware that the information it provided when it responded to these requests for information was also shared between those parents and carers. It has provided the Commissioner with correspondence that indicates this.
38. The Trust has told the Commissioner that it is a small trust and dealing with all these complaints, requests for information and internal reviews and chasers has taken a lot of its time and diverted resources from where Anthem should be focused – the children. It says that just dealing with this FOIA complaint and providing a submission for the Commissioner has taken it many hours of work.
39. The Trust has gone on to say that the situation has also caused upset and distress to school staff members and members of the national team, and it has affected people's well-being greatly. This was recognised by the complaint panel at the panel hearing in June 2024.
40. Parents and carers School also shouted at school staff members and members of the Anthem Executive Team during the C&C sessions and made personal remarks.
41. The Trust has stated that the school in question is a fantastic school, the children are very happy, and their outcomes are well above national average. Its regulator, the DfE, is happy with the school and the Trust's response to this campaign. The school is very well run. The Trust has now managed to mend and build relationships between the Anthem national team and school staff and with the ACC, and mostly smoothed the relationship and rebuilt trust with the parental community.
42. The Trust has explained that it now just wishes to move on from this difficult time and considers that complying with this request would clearly take up a disproportionate and unjustified amount of publicly funded time. It says that too much time has already had to be spent on this campaign.
43. The Trust says it responded to most of the requests for information from school parents and carers, but when it received four further FOIA requests in a matter of days between 28 January 2024 and 9 February 2024 – the request being considered here and three others from different requesters – it decided to seek legal advice as the situation was becoming untenable. It considered it was evident that the requesters were working together.
44. Dealing with this request would, says the Trust, mean a considerable time burden for both its IT and data protection teams, as it estimates that it would take lots of hours for it to collect, put together and provide all the detailed information requested. The Trust would manually have to

go through hundreds of emails and MS Team Messages to extract those that specifically match the complainant's request.

45. The Trust says that it offered to provide SEND information relating to particular children of interest to the complainant, but this offer wasn't accepted.
46. The Trust believes that as a group of school parents and carers didn't achieve their objective of getting the school to leave Anthem to join another Trust, they initiated a campaign to try to cause disruption and to obtain information to discredit and disrupt Anthem, as it has explained above.
47. The numerous correspondence and requests for information have caused school staff members and members of the Anthem national team harassment and distress. Some of them were sent when the school was closed during holidays or as noted, out of school hours.
48. In addition to the complaint they submitted about Anthem, the complainant was a member of the school community group (that had also contacted the Trust via a dedicated email address the group has). The complainant was also one of the parents who signed some collective letters sent to Anthem.
49. For their part, in their complaint to the Commissioner the complainant has disputed that their request is part of a 'campaign' against the Trust just because some other parents have also submitted their own FOIA requests out of concern about the Trust's management of the school. The complainant says that to their knowledge there haven't been any other requests about how special needs provision is funded. As such, their request can't be aggregated with others (in relation to section 12 and costs). They say that any requests are separate and there is no 'campaign'.
50. In relation to section 14(1), the complainant disagrees that FOIA requests are putting a burden on Trust staff and that the requests are unreasonable. The complainant considers that, because of their circumstances, their concerns about the Trust are legitimate.
51. The complainant has also said that they have seen emails sent by the Trust, asking that school staff reduce the amount of 1:1 support given to children with special educational needs. These emails suggest to the complainant that the Trust is giving discriminatory and possibly unlawful instructions to the school. They believe that by refusing their request, the Trust is "attempting to hide unethical and potentially unlawful behaviour regarding the provision of special needs support" at the school.

52. The complainant may have concerns about the Trust and about SEND provision, but the Commissioner considers that there will be other routes through which those concerns could be explored. He also notes that the complainant refused the Trust's offer of specific and relevant information about that provision and hadn't raised concerns about SEND provision in their complaint to the Trust referred to at paragraph 29.
53. On the basis of the wider background and detail that the Trust has provided to him, the Commissioner is persuaded that, at the point it was submitted, the complainant's request was submitted as part of a campaign against the Trust. The campaign – by a group of parents and carers unhappy that a particular school would remain with the Trust - continued into 2024 when it appears to have become more hostile.
54. The Commissioner is persuaded that the purpose of the request was to cause disruption to the Trust and ultimately, the campaign has caused staff to feel harassed and stressed. This is an entirely inappropriate use of the information legislation.
55. The Commissioner is therefore satisfied that the Trust was entitled to categorise the complainant's request as a vexatious request under section 14(1) of FOIA, and to refuse to comply with it.
56. Although the Commissioner has found that the Trust was entitled to refuse the complainant's request under section 14(1) of FOIA, he has also considered the Trust's application of section 12(1) to the request.

Section 12 – cost exceeds appropriate limit

57. Under section 12(1) of FOIA a public authority such as the Trust can refuse to comply with a request if the cost of complying with it would exceed the appropriate limit of £450 (18 hours work at £25 per hour).
58. Section 16(1) of FOIA states:

"It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it."
59. In relation to section 12, this involves helping a requester to refine their request to bring complying with it within the appropriate limit – "so far as it would be reasonable to expect the authority to do so."
60. In its submission to the Commissioner, the Trust has detailed how long it would take to deal with the complainant's request. It has estimated,

conservatively, that it would take almost 25 hours to comply with this request. The Commissioner has summarised this as follows:

- Logging request with all the details for the IT team and instructing that team to locate the information = 1 hour
- Locating and retrieving the information = .75 hour
- 799 emails and 63 MS Teams messages have been identified from a search using appropriate search terms. Reviewing each item for relevance @ 1.5 minutes per item = 21.55 hour
- Administration associated with preparing and sending information to complainant, and securing legal advice = 1 hour

61. Not all the activities the Trust has detailed can be included when considering the cost of complying with a request. However, based on the number of emails and Teams messages in scope, the Commissioner accepts that it would exceed the appropriate cost limit to comply with the complainant's request and that section 12(1) of FOIA is engaged.
62. The Trust had aggregated this request with the three other requests that it received at about the same time (referred to in the section 14 analysis) and refused to comply with any of them. Because complying with the complainant's request alone would exceed the cost limit the Commissioner hasn't considered the matter of aggregation. He also notes that he's considered one of these requests separately under reference IC-297750-G1W2¹ and found that the Trust had correctly applied section 12(1) to that request.
63. The Commissioner has also considered the obligation under section 16(1) of FOIA. In its submission to him, the Trust has acknowledged that it didn't provide any advice or assistance to the complainant initially.
64. The Trust has re-stated that it sought legal advice about the time it received the request, and it was advised to apply section 14 to the request as well, in its refusal notice. The legal firm informed the Trust that applying section 14 too would mean that it could refuse to provide advice and assistance on how the complainant could bring their request within the appropriate limit.

¹ <https://ico.org.uk/media/action-weve-taken/decision-notice/2024/4031124/ic-297750-g1w2.pdf>

65. But the Trust says it did provide advice and assistance to the complainant in its internal review, and this wasn't taken up. As has been noted, the Trust says it had advised the complainant that it could send them SEND information about particular children, but the complainant had confirmed that they didn't want this information.
66. The Commissioner doesn't consider that the Trust's offer of that information constitutes appropriate advice and assistance as that information is too dissimilar from that which the complainant has requested.
67. However, given the breadth of the request – it's for correspondence between all the school's senior leaders and the Trust - the Commissioner considers that the request couldn't be meaningfully refined. If it were refined to specific senior leaders, or a reduced time period, it would be unlikely to generate the full picture of SEND provision that the complainant appears to be seeking.
68. In addition, the Trust had also applied section 14(1) of FOIA to the request as it considered the request to be vexatious and part of a campaign. In these circumstances, and noting the wording of section 16(1), the Commissioner doesn't consider it would be reasonable for the Trust to have to offer the complainant advice and assistance; a refined request would still be a vexatious request in the context of such a request.
69. The Commissioner therefore finds that there was no breach of section 16(1).

Right of appeal

70. 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

71. 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.
72. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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