

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 8 November 2024

**Public Authority:** The Governing Body of the Folkestone School for Girls

**Address:** Cooling Lane  
Folkestone  
Kent  
CT20 3RB

### Decision (including any steps ordered)

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1. The complainant has requested information on legal costs associated with a First-Tier Tribunal hearing. The Folkestone School for Girls (the School) refused the request on the basis of section 14(1) – vexatious requests.
2. The Commissioner’s decision is that the School is entitled to rely on section 14(1) of FOIA in this case because the request is vexatious. He therefore does not require any further action to be taken.

### Request and response

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3. On 1 July 2024 the complainant made the following request for information to the School:  
  
“Please provide the following details regarding the school’s expenditure related to the recent case brought to the First-tier Tribunal (Special Educational Needs and Disability) in which the school was found to have breached the Equality Act 2010:
  - The total amount spent on all costs associated with this claim, specifically with Freeths LLP, for the 2022/23 and 2023/24

academic years. This includes, but is not limited to, legal fee, administrative costs, and any other related expenses.

- The total amount spent on all other costs associated with this claim, including but not limited to expenditures on other law firms and any other related expenses for the 2022/23 and 2023/24 academic years.

For clarity I am seeking the total expenditure figures for both academic years, specifically identifying the expenditures with Freeths LLP and other law firms separately.”

4. The School responded on 3 July 2024 refusing the request as vexatious under section 14 FOIA. An internal review response sent on 5 July 2024 upheld this position.

### **Scope of the case**

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5. The complainant contacted the Commissioner on 5 July 2024 to express continued dissatisfaction with the refusal of the School to respond to the request.
6. The Commissioner considers the scope of his investigation is to determine if the School has correctly relied on section 14(1) FOIA to refuse to respond to the request.

### **Reasons for decision**

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#### **Section 14 – vexatious requests**

7. Under section 14(1) of FOIA a public authority isn't obliged to comply with a request for information if the request is vexatious.
8. Broadly, vexatiousness involves considering whether a request is likely to cause a disproportionate or unjustified level of disruption, irritation, or distress.
9. To analyse vexatiousness, the Commissioner considers four broad themes that the Upper Tribunal developed in *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (ACC):
  - Value or serious purpose;
  - Motive;

- Burden; and
  - Harassment to staff
10. The Commissioner will first look at the value of the request as this is the main point in favour of the request not being vexatious. He will then look at the negative impacts of the requests ie the three remaining themes of burden, motive, and harassment, before balancing the value of the requests against those negative impacts.
  11. The complainant argues their request has a clear purpose and value as it relates to the use of public funds in a matter of significant public interest – the use of school funds on a disability discrimination case, where the school was found to have breached the Equality Act 2010.
  12. The complainant believes the school has an obligation to demonstrate transparency, accountability and value for money in its financial dealings and the expenditure on legal defence and related costs in this context is a matter of public concern. The request asks for aggregate expenditure figures rather than detailed breakdowns that the complainant argues would not be burdensome to provide.
  13. The complainant is clear that their request has a motive in informing the public debate on mental health, highlighting the issues faced by families and the public expenditure involved. This serves an important public function by raising awareness and promoting accountability.
  14. The School has provided some background to the request that the Commissioner has not included in this notice as it does not materially affect the decision but does add some context.
  15. The School has stressed that the request is one of many requests and communications on this subject. The complainant has made other requests for personal data under the Data Protection Act 2018 (DPA), made a complaint that was taken to the Special Educational Needs and Disability (SEND) Tribunal (heard on 26 March 2024), made a complaint to the Solicitors Regulation Authority concerning the School's solicitor, made a complaint to Ofsted during the recent school inspection which the School states was rejected, and made a complaint to the Department for Education (DfE) about the school's complaints procedure.
  16. The School states that after a period of relative quiet the publication of the Ofsted report in April 2024 has resulted in a new surge of complaints and emails. The Ofsted findings were that leadership and management at the School were 'good' which may not have aligned with the complainant's views.

17. Following the SEND Tribunal adjudication a complaint was raised with the TRA regarding the headteacher's actions and the adjudication concluded there was not sufficient evidence to support the allegations for a finding of unacceptable professional conduct or bringing the teaching professions into disrepute to be made.
18. The School acknowledges the SEND Tribunal found against the School but argues it has taken all actions required of it in response to the decision. Despite this it states that it has continued to receive emails and complaints on the same subject, with approximately 270 emails received in the last few months on substantially the same subject that resulted in the referral to the SEND Tribunal or the Tribunal decision itself.
19. The School states it has spent a significant amount of time responding to the various requests, complaints and allegations it has received from the complainant. These have been ongoing with little reprieve since January 2023 and have taken a toll on staff at the School. In particular the headteacher has been under significant stress, particularly whilst waiting for the TRA to reach their conclusion.
20. In summary, the School argues the requests are obsessive, persistent and repetitious as the issues concerned have been raised at length via several routes, designed to cause disruption and annoyance, and lacking any serious purpose or value as the issues have been adjudicated on.
21. The Commissioner appreciates the underlying issue behind this request is an emotive issue. The complainant clearly had reason to raise concerns with the School and these were addressed by the SEND Tribunal. The Commissioner's view is that this could have provided a satisfactory end point with the Tribunal finding against the School. Subsequent complaints to the DfE and the TRA have not found further wrongdoing and the Ofsted report did not suggest there were significant problems with leadership and management at the School.
22. The request, on face value, is not asking for in-depth information and there is a value to it. Understanding what public funds were used on legal fees by the School in relation to the SEND Tribunal would be of interest in understanding how money is spent.
23. However, the Commissioner doesn't consider that this will provide any satisfactory end point for the complainant. The issues have been considered via multiple channels, fault has been found by the Tribunal but no further action has been taken by the DfE or TRA. Requests, complaints and allegations still continue and responding to this request is only likely to generate further requests and complaints.

24. The School has dealt with these but not without a cost to the wellbeing of its staff and to its resources. The complainant's behaviour seems to suggest that regardless of the information disclosed and the response they receive, they will continue with this pattern of communication placing even more burden on the School for an issue that has been thoroughly looked at by a number of bodies and despite the School having taken action following the Tribunal decision.
25. The complainant's continuing behaviour is now placing an unjustifiable burden on the School and is causing disruption, irritation and distress. It is not an appropriate or justifiable use of FOIA. For these reasons, the Commissioner is satisfied that section 14(1) applies.

## **Right of appeal**

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26. 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)

27. 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.
28. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Jill Hulley**  
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