

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 11 February 2025

**Public Authority:** Ministry of Justice  
**Address:** 102 Petty France  
London  
SW1H 9AJ

### **Decision (including any steps ordered)**

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1. The complainant made two requests for information about the Legal Aid Agency (LAA)'s management of payments on account. The LAA is an executive agency of the above public authority (the "public authority") therefore the public authority is the appropriate public authority for the purposes of FOIA.
2. The public authority relied on section 14(1) of FOIA (vexatious) to refuse both of the requests.
3. The Commissioner's decision is that the requests were vexatious and therefore the public authority was entitled to rely upon section 14(1) of FOIA to refuse them.
4. The Commissioner does not require any steps.

### **Request and response**

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5. On 16 July 2024, the complainant wrote to the public authority and requested information in the following terms (the "first request"):

"I would like to see all reports about "payments on account" in civil legal aid cases which were given to the executive team of the legal aid agency between March 2020 and Sept 2022.

I believe it is in the public interest to release these reports to me because 1) it is important the government is transparent regarding

how taxpayer money is spent 2) the public has a right to know how taxpayer funds are safeguarded.

If the reports contain the names of private companies, pls free to redact names or company numbers”.

6. The public authority responded on 6 August 2024 refusing the first request as vexatious “because the request appears to be a continuation of correspondence previously determined to be vexatious by the MOJ and the ICO.”
7. On internal review dated 4 September 2024, the public authority explained to the complainant in more detail why it considered the request to be vexatious. In particular, that the request appeared to have been made following contact with a particular individual known to the public authority:

“I consider that the individual is attempting to circumvent the decisions of the LAA and ICO, and the application of s.14(1) of FOIA, by attempting to access the same or substantially similar information through third parties”.
8. On 29 July 2024, the complainant wrote to the public authority and requested information in the following terms (the “second request”):

“I would like to make a request under FOI.

In a minute for a meeting of the civil contracts consultative group (CCCG) dated 6th Dec 2023, it references a "a paper" regarding Pre-CCMS Certificates Project. I would like to see this paper please. Here is the minute, the paper is referenced in "point 2" of the minute. [https://assets.publishing.service.gov.uk/media/65f2ba33ff11701fff615ad3/4\\_CivilCCG\\_Minutes.December23\\_DP.pdf](https://assets.publishing.service.gov.uk/media/65f2ba33ff11701fff615ad3/4_CivilCCG_Minutes.December23_DP.pdf)”
9. The public authority responded on 27 August 2024 refusing the second request as vexatious “because the request appears to be a continuation of correspondence previously determined to be vexatious by the MOJ and the ICO, namely the LAA’s management of payments on account, instigated by an individual with whom you appear to be acting in concert as part of a campaign.”
10. The complainant denied “acting in concert” explaining:

“As a journalist, I receive information all the time. I assess that information and if I believe it is in the public interest and credible, I continue research. In this case, I was told that the

MOJ/Legal Aid Agency had wasted large amounts of taxpayer's money. I am now in the process of finding out if this is correct."

11. On internal review dated 26 November 2024, the public authority explained to the complainant in more detail why it considered the request to be vexatious:

"The paper you have requested concerns the LAA's management of payments on account. I previously carried out Internal Review dated 4 September 2024, in which I explained why your request for information regarding the LAA's management of payments on accounts was assessed to form part of a specific individual's campaign of disruption and burden being placed on the LAA and which the MOJ and ICO considers to be vexatious."

12. To be clear, the internal review referred to in paragraph 11 is the one dated 4 September 2024 in respect of first request detailed above.

## **Scope of the cases**

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13. The complainant wrote to the Commissioner on 23 September 2024 to complain about the handling of the first request and on 21 October 2024 to complain about the second request, and two separate cases were set up by the Commissioner – IC-333650-T8M0 and IC-339661-R3J5.
14. The Commissioner wrote to the public authority separately on both of these cases.
15. In its submissions to the Commissioner, the public authority stated that it was relying on the same submissions for the two cases.
16. Having reviewed the submissions, the Commissioner is of the view that both cases should be dealt with in one Decision Notice.

## **Reasons for decision**

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### **Section 14(1) – vexatious requests**

17. The following analysis considers whether the requests were vexatious.
18. 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. There is no public interest test.

19. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s updated guidance on section 14(1)<sup>1</sup> 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.
20. 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.
21. 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.
22. 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”)<sup>2</sup>. Although the case was subsequently appealed to the Court of Appeal, the UT’s general guidance was supported, and established the Commissioner’s approach. The UT commented that vexatious could be defined as the “manifestly unjustified, inappropriate or improper use of a formal procedure.”
23. In the Dransfield case, the UT also found it instructive to assess the question of whether a request is truly vexatious by considering four broad issues: (1) the burden imposed by the request (on the public authority and its staff); (2) the motive of the requester; (3) the value or serious purpose of the request and (4) harassment or distress of and to staff.
24. However, the UT emphasised that these four broad themes are not a checklist and are not exhaustive. It stated:

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<sup>1</sup> [Vexatious and repeated requests | ICO](#)

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

“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”.

### **The public authority’s view**

25. It is the public authority’s view that the requests are vexatious when considered in the context of a wider campaign by an individual (the “relevant individual”) who has an extensive history of making FOI requests relating to the payments on account system, financial mismanagement and allegations against the LAA and its staff. The public authority has advised the Commissioner that the relevant individual has made 66 requests to the LAA relating to various issues and complaints they have raised since 2018.

26. The relevant individual is a former employee of the LAA and the public authority has set out for the Commissioner the requests the relevant individual has made either directly, or via other persons, since 2022. One such request dated 20 August 2022 was worded:

“Please provide me with copies of all Reports on the subject of Payments on Account in Civil Legal Aid cases which have been considered by the Executive Team of the Legal Aid Agency in the last two years.”

27. This request is almost identical to the complainant’s first request and was found to be vexatious by the Commissioner in a previous Decision Notice.<sup>3</sup> The Commissioner’s decision was that:

“it appears the complainant is seeking the requested information for their own private gain rather than in the public interest.”

28. The public authority also provided evidence that requests have previously been made on behalf of the relevant individual by third parties. For example, on 20 October 2022, a researcher who confirmed their connection with the relevant individual made the following request:

“I wish to see details of the value of all outstanding payments on account of profit costs in civil legal aid cases - the global figure. Also I require a copy of any report which may or may not have gone to the

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<sup>3</sup> [ic-199075-g6d3.pdf](#)

Executive Team of the Legal Aid Agency which concerns the issue of payments on account in civil legal aid cases.”

29. Again, this is very similar to the complainant’s first request and the request which was the subject of the Decision Notice mentioned in paragraph 26 above – IC-199075-G6D3.

30. On 6 February 2024 the public authority received the following request from a Daily Mail journalist with whom the relevant individual had been in contact:

“Please provide me with copies of all reports on the subject of Payments on Account in Civil Legal Aid cases which have been considered by the Executive Team of the Legal Aid Agency since September 2020.”

31. Again, this is strikingly similar to the complainant’s first request.

32. As regards the connection between the relevant individual and the complainant, the public authority provided the Commissioner with a copy of an email dated 17 July 2024 sent by the relevant individual to the complainant as evidence that the relevant individual has influenced the submission of the FOI requests by the complainant. The email exchange relates to the topic which forms the basis of the complainant’s requests. The public authority asserts that the email between the complainant and the relevant individual makes clear that it forms part of a wider course of correspondence between them on the subject to the complainant’s requests.

33. The public authority also provided evidence to the Commissioner of the volume and nature of emails sent to the LAA by the relevant individual between 15 July 2024 and 2 August 2024, while they were dealing with the complainant’s requests. Fifty-eight emails were sent during this period which were mostly derogatory and accusatory regarding the payments on account process, financial mismanagement and the Employment Tribunal process. One of the emails dated 18 July 2024 states that the relevant individual has an investigative journalist working on the case to expose the LAA Chief Executive. The public authority asserts that this is further evidence that the complainant is “acting in concert” with the relevant individual.

34. The public authority has explained to the Commissioner that the volume, frequency and often hostile nature of the relevant individual’s communication places a burden on the public authority and causes distress to staff targeted. It is the public authority’s position that the relevant individual is attempting to circumvent previous decisions by influencing others to submit requests on their behalf. Consequently,

dealing with the complainant's requests in circumstances where they are clearly a duplicate of, or is substantially similar to, requests submitted by or linked to topics raised by the relevant individual "adds both to the collective unjustified burden and distress to LAA staff."

35. It is the public authority's position that the detrimental impact of complying with the complainant's requests is unjustified considering the inherent purpose and value of the requests. The public authority further submits that "it cannot be inferred by virtue of the complainant being a journalist that there is any intrinsic public interest or value in the information sought".
36. In addition, it is the public authority's belief that: "the internal and historic nature of the material being sought means that the content would neither be current nor likely capable of sound interpretation by a layperson".
37. The public authority has explained to the Commissioner that the original allegation brought by the relevant individual that the requested information would demonstrate that there has been a waste of taxpayer money has been independently considered and dismissed under the public authority's whistleblowing process.
38. Further, the public authority has explained that the LAA's accounts are audited annually by the National Audit Office. This audit considers all aspects of the LAA's financial management and controls, including management of the LAA's payment on account process. The LAA's accounts have been continuously certified by the NAO without qualification since its creation in 2013. Therefore, the allegations of mismanagement do not appear to be rooted in fact.

### **The complainant's view**

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39. The complainant strongly denies that they are "acting on concert" with the relevant individual who has previously been determined to be vexatious by the public authority and the ICO.
40. The complainant has explained to the public authority and the Commissioner that, as an investigative journalist, they receive information from various sources and make decisions on whether to pursue a particular line of enquiry. The complainant contends that: "my request should be dealt with separately because while I may have received information from sources, I am not working with them."
41. The complainant asserts that they have made the requests because they are investigating whether public money has been wasted and that the



motive of the requests is the strong public interest in safeguarding taxpayers' money.

42. The complainant argues that their requests are not vexatious as they are not "intended to be annoying, disruptive or have a disproportionate impact on a public authority" and that "there has been no harassment of staff".

### **The Commissioner's decision**

43. Refusing a request as vexatious is a severe measure. It follows that a public authority must meet a high bar in demonstrating that such action is justified. It is not the complainant's responsibility to demonstrate that their request is not vexatious.
44. This decision turns on the link between the complainant's requests and previous requests made by the relevant individual.
45. The public authority has provided the Commissioner with a detailed explanation and evidence indicative of its view that the relevant individual is seeking, via the complainant, to request information previously refused to them on grounds that their requests were vexatious. The Commissioner notes the similarity of wording of the complainant's first request to previous requests made by the relevant individual.
46. The Commissioner also notes the evidence provided by the public authority of communication between the relevant individual and the complainant and also the admission by the complainant that they "received information from sources".
47. As regards the second request, the Commissioner notes that the paper referred to in the CCCG meeting dated 6 December 2023 is described as follows in the minutes<sup>4</sup>:

"A paper had been shared before the meeting describing the scope of the project which concerned all older paper-based cases in that are 'billable', but didn't have 'final bill', including providers with and without a contract with the LAA. The project was specifically targeted Unrecouped Payments on Account [UPOA] activity. The Agency would close down cases if the affected providers did not respond to the Agency's request for information or confirmed no bill was due. The LAA

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<sup>4</sup> [Civil Contract Consultative Group Minutes September 2021](#)



had agreed to a number of providers' requests to have 'recovery plans' (i.e., the LAA would stagger the recoupment of POAs over a number of months rather than recouping all POAs in one go) which were all currently under active management. XXXX would find out how many providers had agreed to a recovery plan."

48. The Commissioner notes that the public authority refused this request as vexatious because the paper concerns the LAA's management of payments on account which was assessed to form part of the relevant individual's "campaign of disruption and burden being placed on the LAA and which the MOJ and ICO considers to be vexatious."
49. Based on the evidence provided, the Commissioner is therefore of the view that a line of causation can be drawn between the relevant individual's ongoing campaign against the LAA and the complainant's requests.
50. It is the Commissioner's view that the public authority has provided the Commissioner with compelling evidence that the relevant individual is seeking to obtain information via the complainant which has been previously denied as vexatious and is seeking to continue a campaign against the LAA.
51. The Commissioner finds that such behaviour amounts to "manifestly unjustified, inappropriate or improper use of a formal procedure" as it seeks to misuse FOIA procedure and as such would fall within the UT suggested definition of "vexatious" in Dransfield.
52. The Commissioner believes that the public authority was entitled to rely on section 14(1) of FOIA to refuse the requests because they were vexatious.

## Other matters

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53. There is no obligation under FOIA for a public authority to provide an internal review process. However, it is good practice to do so and, where an authority chooses to offer one, the section 45 Code of Practice<sup>5</sup> sets out, in general terms, the procedure that should be followed. The code states that reviews should be conducted promptly and within reasonable timescales. The Commissioner has interpreted this to mean that internal

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<sup>5</sup> [Freedom of Information Code of Practice - GOV.UK](#)

reviews should take no longer than 20 working days in most cases, or 40 in exceptional circumstances.

54. In this case, the public authority took three months to provide an internal review in respect of the second request and the Commissioner reminds the public authority of its obligations pursuant to the section 45 Code of Practice.

## Right of appeal

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55. 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)

56. 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.
57. 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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