

Freedom of Information Act 2000

Decision notice

Date: 17 November 2014

Public Authority: Civil Service Commission
Address: G/08, 1 Horse Guards Road
London
SW1A 2HQ

Decision (including any steps ordered)

1. The complainant requested information relating to complaints made to the Civil Service Commission (CSC). The CSC refused the request as it considered it to be vexatious.
2. The Commissioner's decision is that the request is vexatious. No further action is required.

Request and response

3. On 17 April 2014, the complainant wrote to the CSC and requested information in the following terms:

"Between 2007 to 2014, please state how many complaints were raised with you under the Civil Service Code and what these complaints were. (I'm not interested in who raised them just want to know what these complaints were) Please tell me if the CSC upheld these complaints and which ones they did not."
4. The CSC responded on 20 May 2014. It stated that it considered the request to be vexatious as per section 14 of the Freedom of Information Act 2000 (the Act). This was upheld in the CSC's internal review of 23 June 2014.

Scope of the case

5. The complainant contacted the Commissioner on 28 July 2014 to complain about the way his request for information had been handled.
6. The Commissioner considers the scope of the complaint to be whether the request is vexatious.

Background to decision

7. The case background and a significant proportion of the issues that arise in this case have been visited by the Commissioner in a previous decision notice.¹ The complainant appealed against this decision to the First-Tier Tribunal (Information Rights) which struck out the appeal as it had no reasonable prospect of it succeeding.² The complainant still feels aggrieved about these issues, as demonstrated by his requests to the Commissioner since.^{3 4}
8. In this previous decision the Commissioner decided the request was vexatious based on three factors, all borne from the complainant's incorrect belief that the CSC should investigate his human resources complaint. Firstly, the obsession shown by the complainant is his unreasonable pursuance of his concerns; secondly, the harassment experienced by CSC due to the excessive volume of correspondence sent by the complainant; lastly, the lack of any serious purpose to the

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http://ico.org.uk/~media/documents/decisionnotices/2012/fs_50451470.aspx

2

http://www.informationtribunal.gov.uk/DBFiles/Decision/i950/2013_01_24;%20Andi%20Ali;%20EA.2012.0246;%20Strike%20Out%20decision.pdf

3

https://www.whatdotheyknow.com/request/hmrc_authorized_to_use_public_fu

4

https://www.whatdotheyknow.com/request/the_information_commissioner_has

complainant's request, as it was worded in a way that reflected the complainant's grievance rather than information likely to be held.

Reasons for decision

9. Section 14 of the Act states that a public authority may refuse a request if it considers the request to be vexatious. The Act does not provide a definition of the term, but the Commissioner has issued guidance on the subject which takes into account the decisions he has issued as well as the significant cases that have been put before the First Tier and Upper Tier Tribunal.⁵ The Commissioner will work towards the definition which is provided in paragraph 20 of his guidance, namely that:

"[T]he key question the public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress."

10. To reach his decision, the Commissioner will assess the factors which indicate that the request is not vexatious against those that do. He will then make a determination based on the balance of those factors. When considering these factors he will take into account the context in which the request was made and the history between the CSC and the complainant.

Reasons why the request is not vexatious

11. In the previous decision referred to above, the Commissioner documented the burden placed upon the CSC due to the volume of correspondence that the complainant had submitted. However, in its submissions for this decision the CSC provided an updated history which shows that the complainant had only submitted one other freedom of information request in the year leading up to the request considered in this notice. It also appears that the general correspondence surrounding the complainant's requests and his concerns about the CSC has decreased. The Commissioner considers this shows that the request does not represent a significant burden to the CSC when viewed in isolation, and therefore would not cause a significant disruption to its services.

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http://ico.org.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx

12. The Commissioner also notes that the complainant's request has a relatively small scope, so the held information would be a small amount of information that the CSC could disclose to the complainant without expending much of its resources.
13. The complainant has argued to the Commissioner that there is a public interest argument in the information being provided. He stated that the CSC receives tax-payers' money and how it uses those resources is a matter of public concern. The Commissioner wishes to make it clear that there is no specific public interest test for section 14 of the Act but the general point remains: there is a public interest in knowing how public authorities carry out their functions.

Reasons why the request is vexatious

14. However, the Commissioner's view is that this request is specifically linked to the complainant's long standing grievance against the CSC. The Commissioner cannot accept that it is a coincidence the complainant decided to ask for information from 2007, the year in which he raised his concerns to the CSC and the year which is referred to in his other requests to the CSC.^{6 7} In the Commissioner's view the complainant has specifically chosen this date because it will include information about the concerns that he raised, and the purpose is not one spurred on by the public interest but by a personal interest to open up an issue that has already been addressed. This is evidence that the request is an unjustified use of the statutory right of access to information, and the Commissioner considers this lends significant weight to the argument that the request is vexatious.
15. Further, the Commissioner considers that the complainant is still engaging in unnecessarily offensive comments about the CSC's conduct. The complainant still maintains a blog about the CSC which contains insults and allegations relating to its staff,⁸ and he also made an accusations against the CSC in the correspondence surrounding the request in this decision:

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https://www.whatdotheyknow.com/request/how_many_civil_servants_have_bee_2

⁷ https://www.whatdotheyknow.com/request/please_release_the_minutes_2

⁸ <http://bunglingcivilservicecommissioners.blogspot.co.uk/>

*"Don't be silly, the issues I raised with you included the fact that HMRC had misused public funds to charge me with holding 'extreme political views for heckling the BNP' - a clear breach of the civil service code. The only reason you have not investigated it, is because you are entirely funded by the Cabinet Office and they want the matter hushed up."*⁹

16. This is viewed by the Commissioner as additional evidence that the request relates to the complainant's long standing grievance against the CSC. Using the Act as a means of addressing a grievance, especially one that has been addressed on numerous occasions, is seen by the Commissioner as evidence that the request is vexatious.
17. Finally, the Commissioner also notes that whilst the complainant made only one other request in the year leading up to the request in this decision, that request was also about the complainant's grievance with the CSC. The complainant displays an unreasonable persistence in trying to pursue matters that have already been considered several times by the CSC. The Commissioner considers that the CSC has gone to sufficient lengths to ensure that the complainant's concerns have been looked at and that it does not need to answer them again through a request for information.

Commissioner's decision

18. The Commissioner's decision is that the request is vexatious. He considers that the request is a continuation of the complainant's pattern of behaviour set out in the previous decision notice issued under the reference FS50451470. Whilst he notes the relatively small scope of the complainant's request and the comparatively reduced amount of correspondence made to the CSC, it is overwhelmingly clear that the request relates to the complainant's grievance. The Commissioner is satisfied that the complainant's persistence about these matters through a request for information is an unjustified use of the Act.

Right of appeal

19. 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: 0300 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

20. 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.
21. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Alexander Ganotis
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