

## **Freedom of Information Act 2000**

### **Decision notice**

**Date:** 14 December 2015

**Public Authority:** Companies House  
**Address:** Crown Way  
Cardiff  
CF14 3UZ

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

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1. The complainant requested information from Companies House relating to complaints. The request was refused under section 14(1) of the Freedom of Information Act 2000 (the Act) as Companies House considered it was vexatious.
2. The Commissioner's decision is that the request is vexatious. No steps are required.

#### **Request and response**

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3. The Commissioner notes that under the Act, Companies House is not a public authority itself but an executive agency of the Department for Business, Innovation and Skills. Therefore, the public authority in this case is actually the Department for Business, Innovation and Skills and not Companies House. However, for the sake of clarity, this decision notice refers to Companies House as if it were the public authority.
4. The complainant provided the Commissioner with a copy of the request dated 25 March 2015. However, the Commissioner does not consider that this was received by Companies House as the complainant made a typographical error when writing the email address for Companies House.
5. On 15 May 2015, Companies House received a request under the Act for the following:

*Under the stated act Please advise, in the last 5 years:-*

- *How many complaints were made (To Companies House) during this period*
  - *How many were resolved in the first 6 weeks*
  - *How many were resolved thereafter*
  - *How many remain unresolved*
6. Companies House responded on 12 June 2015 and refused the request as vexatious under section 14(1) of the Act. The complainant asked for an internal review of this decision.
7. Companies House issued its internal review on 17 July 2015. The review upheld Companies House's previous decision.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 29 April 2015 to complain that he had not received a response to his request of 25 March 2015. As stated previously, this request was not received by Companies House due to an error by the complainant.
9. Upon receipt of Companies House's internal review the complainant informed the Commissioner that he wished to appeal against the section 14(1) refusal. The Commissioner considers the scope of the case to be whether the request is vexatious as per section 14(1) of the Act.

### **Reasons for decision**

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10. Section 14(1) of the Act states:

*Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.*

11. The term "vexatious" is not defined in the Act. The Upper Tribunal (Information Rights) considered in some detail the issue of vexatious requests in the case of the Information Commissioner v Devon CC & Dransfield.<sup>1</sup> The Tribunal commented that vexatious could be defined as the "manifestly unjustified, inappropriate or improper use of a formal

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<sup>1</sup> GIA/3037/2011

procedure". The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.

12. In the Dransfield case, the Upper Tribunal 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.

13. The Upper Tribunal did however also caution that these considerations were not meant to be exhaustive. Rather, it stressed the:

*"[I]mportance of adopting a holistic and broad approach to the determination of whether a request is vexatious or not, emphasising the attributes of manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious requests" (paragraph 45).*

14. In the Commissioner's view the key question for public authorities to consider when determining if a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.

#### *Complainant's view*

15. The complainant informed the Commissioner that Companies House had been accused of having and maintaining false records in relation to complaints and its complaint procedures. He also stated that Companies House had made false representations to Parliament on this matter, although he did not go into detail or provide evidence for either of these accusations.

#### *Companies House's view*

16. Companies House gave a detailed account of its previous dealings with the complainant. Correspondence began in 2009, relating to what it described as "an alleged complaint" made to Companies House. Companies House stated that this matter was eventually closed because the complainant was unable to provide the basis for his complaint.
17. In 2011, Companies House received a request from the complainant under the provisions of the Act for the number of "unresolved disputes" within a six year period. Companies House responded to the request with information relating to various disputes that it handles, explaining that it was not sure what was meant by the complainant's term as – in its view – all disputes are dealt with and resolved.

18. The complainant's response stated he wished to complain because the response was comprised of "blatant untruths". He also informed Companies House that he was still pursuing trying to have it debarred, and that the costs of doing so were "being submitted on [its] behalf to Her Majesty and Her Government". Companies House responded and presented its arguments for how it determined the extent of the complainant's request, and stated that it appeared there were different definitions for the phrase used in the request. It also offered the complainant an internal review, which the complainant duly asked for. The complainant stated to Companies House that it was "referred to as a Bastardised Government Department" because he considered that Companies House had not acted in accordance with its own Code of Compliance.
19. The internal review provided some further information about "justified" and "unjustified" disputes, but reiterated that there was nothing held regarding "unresolved" disputes. The complainant wrote to the individual who carried out the review and stated that the response was unacceptable. He accused Companies House of not responding to his complaint – despite the fact that the matter had now been addressed by two different individuals – and that the explanation given about how Companies House viewed its recorded information is "unacceptable". The complainant also stated that Companies House had missed a complaint from a table about filing disputes, but did not provide any evidence to show that this was the case.
20. The complainant submitted two further letters to the individual who wrote the internal review, largely on the same theme as before. A response was issued by the head of Companies House's Information Rights Team, which summarised the matter from its perspective. After this there was nothing further from the complainant with regard to the 2011 request.
21. A second request was submitted by the complainant in 2013, this time asking how the number of instances where complaint references had been "delayed" by Independent Adjudicators (IAs) within various timeframes. Companies House explained to the Commissioner that IAs deal with appeals against late filing penalties after the appeal has gone through two internal stages.
22. This request eventually resulted in a decision notice from the Commissioner, and the details of the request and response can be found

there.<sup>2</sup> The Commissioner has reviewed the case documents and finds that it is largely similar to those from the previous request in 2011: the complainant makes accusations and declares Companies House is acting dishonestly, there is a dispute over the terminology used in the request, and that Companies House provides detailed responses explaining its position to the complainant. The only difference is that there was a mistake in the initial figures provided to the complainant which was later cleared up at the internal review stage.

23. The Commissioner's decision for the complainant's then appeal was that Companies House had provided all of the relevant information. The decision notice also contained a comment on the complainant's section 77 allegations (instances where information has been deliberately blocked from disclosure), which stated categorically there was not "any" evidence to substantiate the complainant's allegations.
24. The complainant appealed the Commissioner's decision, asking for the First-Tier Tribunal to consider whether the Commissioner was correct about his view on his section 77 accusations, with a view to having Companies House subject to a "criminal prosecution". The First-Tier Tribunal struck out the complainant's appeal, as section 77 concerns came outside of its remit.<sup>3</sup> The complainant then tried to appeal the First-Tier Tribunal's decision to the Upper Tribunal, and this was duly struck-out as well.<sup>4</sup> When confirming that the appeal to the Upper Tribunal was struck out the judge added:

*"There is a subsidiary point as to whether the full extent of the information held has been provided, that being a decision under section 50 which is subject to appeal. [The complainant] has been given the opportunity to add detail to his bare assertion on this issue, but has not done so. In the light of that subsidiary issue, if there is an argument that it should have gone forward as a separate point on the appeal and not have been subject to the strikeout, is not one upon which there will ultimately be any prospect of success, since a mere assertion that*

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<sup>2</sup> [https://ico.org.uk/media/action-weve-taken/decision-notices/2014/954770/fs\\_50511068.pdf](https://ico.org.uk/media/action-weve-taken/decision-notices/2014/954770/fs_50511068.pdf)

<sup>3</sup>

[http://www.informationtribunal.gov.uk/DBFiles/Decision/i1275/Durant,%20Edward%20EA.2014.0058%20\(07.05.14\)%20Strike%20Out.pdf](http://www.informationtribunal.gov.uk/DBFiles/Decision/i1275/Durant,%20Edward%20EA.2014.0058%20(07.05.14)%20Strike%20Out.pdf)

<sup>4</sup> This information is held in the Commissioner's records, but is not available online.

*further information is available is unlikely to satisfy the burden of proof in that regard."*

25. When Companies House received the request that is the subject of this appeal, it decided to apply section 14(1), as it considered the request to be vexatious. It stated that the context and history in which the request was made showed that there was a pattern in the complainant's behaviour, and that it considered deploying further resources to address his concerns would be an unwarranted interruption of its functions. It explained that the complainant had shown an unreasonable level of persistence, all the while providing little evidence to support his accusations and a level of disregard for responses from Companies House which demonstrated a clear disdain for the public authority in general.
26. Companies House argued that addressing a matter that had already been visited was unlikely to furnish the complainant with the redress that he wanted. Instead, in its view, it would lead to protracted correspondence in which the complainant would make further unfounded accusations about its conduct. In its submissions Companies House summarised its position as follows:

*"The context and history of this particular case strongly demonstrate [that the request is vexatious]. It is clear this is a further attempt to elicit information that is not held by CH, despite CH providing advice and assistance over a number of years in an attempt to get to the bottom of the issue. CH anticipates that there will be numerous follow up enquiries regardless of what information CH provides and that this again would impose a disproportionate burden on CH."*

#### *Commissioner's view*

27. The Commissioner's view is that some of the discussion over the complainant's terminology in the previous requests might have been avoided. Should Companies House not have understood the terms used by the complainant it should have addressed this with the complainant before proceeding further, as per section 1(3) of the Act. However, the Commissioner notes that in each instance Companies House confirmed that the information was not held under those terms so met with its obligations. He also commends Companies House on the thoroughness of its responses to the complainant and the extent to which it went in order to provide the complainant with information of relevance.
28. When making his decision the Commissioner has been mindful that the burden of correspondence from the complainant is far from being oppressive. Whilst there are a number of letters from the complainant in Companies House's submissions, they are spread out over a number of years. However, whilst the volume does not support the view that the

request is vexatious, the content of them does. They show that the complainant is of a fixed mind-set and calls almost any response from Companies House untruthful or dishonest. The Commissioner agrees with Companies House's position as outlined at paragraph 25 that further engagement between the complainant and Companies House on the same subject is unlikely to provide the complainant with anything he would consider satisfactory.

29. To support this, the Commissioner also has on record a document from the complainant's previous appeal showing that the complainant had contacted the Prime Minister and Business Secretary, and was prepared to report them for breaches of the Ministerial Code for not responding to his correspondence. In this correspondence he stated that both individuals had "knowledge and consent" of Companies House maintaining false records and it being "untruthful" in its responses to him under the provisions of the Act. This – along with the correspondence the complainant sent to Companies House and the previous section 77 accusations – show that the complainant has no confidence in Companies House's ability to provide him with honest and accurate information. To allow further information requests of this nature to continue can reasonably be seen as an unjustified use of rights afforded to the complainant under the Act.
30. In addition to this, the Commissioner has noted the language chosen by the complainant in his correspondence with Companies House. Comments such as describing it as the "Bastardised Government Department" highlight the complainant's attitude, one which shows that relations between the two parties are not productive. The Commissioner does not consider the language alone to be sufficient to refuse the request but it is seen as a useful indicator into the context in which the request was made. It shows that the complainant has acted in an improper manner and adds weight to the argument that to comply with the request would be an unjustified use of Companies House's resources.
31. The complainant is adamant that Companies House is guilty of a number of misdeeds, but despite numerous opportunities to provide information to the Commissioner as well as the First-Tier and Upper Tribunal, there has been nothing to substantiate these claims. If there was significant evidence to support the complainant's views then there might be a legitimate interest in compliance with the request, but nothing the complainant has provided suggests to the Commissioner that there is much of substance to his allegations.
32. The Commissioner's decision is that based on the context in which it was made, the complainant's request is vexatious as per section 14(1) of the Act. No steps are required.



## Right of appeal

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33. 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](mailto:GRC@hmcts.gsi.gov.uk)

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

34. 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.
35. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**