

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 June 2012

Public Authority: Governing body of Liverpool Hope University

Address: Hope Park
Liverpool
L16 9JD

Decision (including any steps ordered)

1. The complainant has requested information about a senior lecturer at the University. The University refused to comply with the request relying on section 14(1) of the FOIA.
2. The Commissioner's decision is that the University has correctly applied section 14(1) of the FOIA. The Commissioner requires no steps to be taken.

Request and response

3. On 25 October 2011, the complainant wrote to the University and requested further information following an earlier response, dated 3 October 2011, from the University about an incident involving a senior lecturer. The complainant requested the following
 - a) *"Due to the fact this matter involved an emotionally vulnerable minor. In line with your response above [refers to 3 October response] does, the University not consider the matter seriously with Social Services and the Police involvement?"*
 - b) *Is the recommendation by Social Services, and the action taken by the Police not good enough as supporting evidence?*
 - c) *Did the University take up this matter with any of these bodies to validate this?*

d) Because of the Police outcome, would the University carry out a CRB check as a matter of course?"

4. The University responded on 15 November 2011. It stated that the request was vexatious under section 14(1).
5. Following an internal review the University wrote to the complainant on 27 February 2012. It upheld its original position

Scope of the case

6. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
7. The Commissioner will consider whether the University was correct to apply section 14(1) in this case.

Reasons for decision

8. Section 14(1) of FOIA states that, section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.
9. The Commissioner considers that the key questions for public authorities to consider when determining if a request is vexatious are:
 - (i) whether compliance would create a significant burden in terms of expense and distraction;
 - (ii) whether the request is designed to cause disruption or annoyance;
 - (iii) whether the request has the effect of harassing the public authority or its staff;
 - (iv) whether the request can otherwise fairly be characterised as obsessive or manifestly unreasonable;
 - (v) whether the request has any serious purpose or value.
10. In this case the University has argued that the request can be characterised as obsessive, has the effect of harassing the public authority or its staff and has no serious purpose or value. The Commissioner has therefore considered these points when making his decision.

Whether the request has the effect of harassing the public authority or its staff

11. The University has highlighted that the requests made by the complainant are all about a lecturer in social work named by the complainant in his requests.
12. The University has demonstrated that as well as the requests received under the FOIA, other areas of the University and various members of staff have received correspondence since 2009 containing unsubstantiated claims and allegations against this lecturer.
13. The Commissioner considers that although some requests may have contained allegations this is not sufficient to demonstrate that the requests had the effect of harassing the University or its staff. However, taking into account the information contained in the confidential annex, the Commissioner does accept that the requests are contributing to the harassment of the public authority or its staff.

Whether the request can otherwise fairly be characterised as obsessive or manifestly unreasonable

14. The University has explained that since 2009 the complainant has engaged with the University on multiple occasions through different departments and members of staff on the same subject – the senior lecturer and the University's approach to CRB checks.
15. As well as the two FOI requests from October 2011, the University has also stated that it received a request on 9 September 2011 as well as emails on the subject in November 2011 and January 2012, all whilst the most recent request was still in the process of being dealt with by the University. The University has also pointed to the correspondence the complainant has had with other public authorities on the same subject as evidence of the obsessive nature of the requests.
16. The University considers that the volume of the correspondence, the nature of the complainant's requests and the period of time the correspondence has been ongoing for indicate a continuing pattern of obsessive behaviour.
17. The University explained that it was of the view that responding to the latest requests would be unlikely to satisfy the complainant. It had come to this conclusion on the basis that the complainant had not been satisfied with the responses to previous requests and, given the history of previous correspondence with the University, any response provided would be likely to result in further requests being made.

18. The Commissioner considers that the previous requests were all based around the same subject matter and the University states it has responded in full and has provided evidence that responding has led to further requests being made.
19. The Commissioner notes that other public authorities, such as Lancashire Constabulary has investigated some of the issues which are the subject of the requests and the Commissioner understands concluded its investigations as far back as 2010. The Information Tribunal (EA/2009/0103) when considering section 14(1) has previously found that "ongoing requests, after the underlying complaint has been investigated [by independent regulators], go beyond the reasonable pursuit of information, and indeed beyond persistence".
20. As such the Commissioner considers that this, along with the period of time the correspondence has been spread over, means that the requests could be fairly categorised as obsessive or manifestly unreasonable.

Whether the request has any serious purpose or value

21. The University is of the view that any information which could be provided in response to the complainant's request would be of little purpose or value to anyone beyond the complainant.
22. The University does acknowledge that the request relates to information about a potential safeguarding issue which would be a matter of serious purpose or value. In a similar case the Tribunal (EA/2007/0130) found that even where a request has serious purpose "there came a point when the Appellant should have let the matter drop...there had been three independent enquiries...in the Tribunal's view it was not justified in the circumstances to persist with his campaign."
23. Another point considered by the Commissioner is that responding to this request in isolation would appear to have been a relatively straightforward matter. The Commissioner has therefore looked at the pattern of previous requests to consider whether the latest request supports the presence of a serious purpose.
24. In this case, a number of requests have been made and it seems that the response to one request triggered the next request. Although the requests were seemingly asking different questions it is the University's contention that the most recent request would result in the provision of similar information to that already provided.
25. The Commissioner has therefore concluded that whilst the initial requests for information on this subject matter may have had serious purpose or value; the most recent request would be unlikely to result in the provision of any information that has not already been provided and,

therefore, the request is unlikely to have had any serious purpose or value.

Conclusion

26. The Commissioner considers that in this case there is strong evidence to demonstrate that the request can fairly be characterised as obsessive or manifestly unreasonable and has the effect of harassing the public authority or its staff. Therefore he has concluded that the University was correct to apply section 14(1) to the request set out in paragraph 3 of this notice.

Right of appeal

27. 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 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

28. 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.
29. 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

Pamela Clements
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