

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

### **Decision notice**

**Date:** 2 December 2019

**Public Authority:** University of Bath

**Address:** Claverton Down

Bath

BA2 7AY

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

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1. The complainant submitted three requests for information regarding particular events held by the University of Bath (the University). The University refused to comply with any of the three requests and cited section 14(1) of the FOIA (vexatious requests) as its basis for doing so.
2. The Commissioner's decision is that the University has correctly applied section 14(1) of the FOIA to the requests.
3. The Commissioner does not require the University to take any steps.

#### **Request and response**

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4. On 7 December 2018, the complainant wrote to the University and requested information in the following terms:

##### **Request one**

*"You kindly supplied information regarding University events, your ref. 2018-276*

*I am looking for information regarding some of these events please.*

*2015 – Vice Chancellor's Christmas drinks. 14th Dec*

*2016 – Rugby at the Rec. 25th Oct*

*2016 – Vice Chancellor's Lunch 25th Oct*

*2017 – VIP Reception. 6th May*

*I would like to know which B&NES Councillors and Council Officers were invited and which accepted?*

*What the total number of guests that's attended each event?*

*What the total final cost of each event?"*

5. On 30 December 2018 the complainant wrote to the University again and submitted two further related requests for the following information:

**Request two**

*"I am now looking for further information regarding one of these events.*

*'2016 – Rugby at the Rec 25<sup>th</sup> Oct'*

*Who else, apart from the names of Councillors and Council Officers already requested, was invited to attend this event?*

*Who else, apart from Councillors and Council Officers, attended the event?*

*What was the menu and beverage list for the event?*

*Where was the event held?"*

**Request three**

*"I am now looking for further information regarding one of these events.*

*'2017 – VIP Reception 6<sup>th</sup> May'*

*Who else, apart from the names of Councillors and Council Officers already requested, was invited to attend this event?*

*Who else, apart from Councillors and Council Officers, attended the event?*

*What was the menu and beverage list for the event?*

*Where was the event held?"*

6. The University responded to request one on 10 January 2019. It refused the request under section 14(1) of the FOIA. It responded to requests two and three together on 28 January 2019, also refusing these requests under section 14(1) of the FOIA.
7. Following an internal review the University wrote to the complainant on 27 February 2019. It maintained its original position in relation to all three requests.

## Scope of the case

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8. The complainant contacted the Commissioner on 24 April 2019 to complain about the way his requests had been handled. He disputed the University's decision to refuse his requests as vexatious.
9. The scope of this case and the following analysis is the determination of whether the Council correctly refused to comply with the requests under section 14(1) of the FOIA.

## Reasons for decision

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### Section 14(1) – Vexatious requests

10. Section 14(1) of the FOIA states that 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 FOIA. The Upper Tribunal considered 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 procedure.*" The Tribunal's definition 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 vexatious by considering four broad issues: (1) the burden imposed by the request (on the public

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<sup>1</sup> <https://www.judiciary.uk/judgments/info-commissioner-devon-county-council-tribunal-decision-07022013/>

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 *"importance 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."*
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.
15. The Commissioner has identified a number of indicators which may be useful in identifying vexatious requests, these are set out in her published guidance<sup>2</sup>. The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of the case will need to be considered in reaching a judgement as to whether a request is vexatious.

### **The University's position**

16. The University provided the Commissioner with its reasons as to why it applied section 14(1) of the FOIA to the requests. In doing so, it has considered the history and context leading up to the requests being made.
17. The University highlighted the number and frequency of requests the complainant submitted. It advised the Commissioner that, including the three requests being considered in this notice, the complainant submitted 42 requests in 2018. In its initial response to request one, the University stated that the complainant's requests represented 11 percent of the total it received that year.
18. The University acknowledged that the complainant's requests asked for information relating to various local issues. However, it explained that 20 of the requests he submitted in 2018 asked for information relating

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<sup>2</sup> <https://ico.org.uk/media/1198/dealing-with-vexatious-requests.pdf>

to events hosted by the University. It said that this was in addition to five requests the complainant submitted on the same subject in 2017.

19. The University acknowledged the requirement for transparency, particularly in relation to issues relevant to local residents. It stated that in response to the majority of the complainant's previous requests it has provided all of the information it held. The University recognised the complainant's legitimate interest in its activities. However, it considered that continuing to respond to his requests on this particular subject would impose a significant burden on the University. In particular, the burden would be placed on the small number of staff who are involved in organising events.
20. The University explained that the complainant's requests about its events were becoming broader in scope. It said that the complainant's requests had previously focussed on those events to which local councillors were invited. Whereas the requests now sought information about event invitees and attendees who had no connection to Bath and North East Somerset Council.
21. Based on its previous dealings with the complainant, the University believed that responding to these three requests would simply lead the complainant to submit further requests. In response to a previous related request submitted in October 2018, the University provided the complainant with a list of 35 events, to which local councillors or council officers were invited. It explained that since providing this information the complainant had submitted requests about 6 of those events. The University was particularly concerned that the complainant would continue to make requests about each of these events, working his way through the remainder individually, which would impose a significant burden on it.
22. The University argued that it was being used to obtain information about the behaviour and actions of people employed by, or elected to, another public authority. The University's view was that there was no longer any justification for it to use its resources to provide information relevant to expense declarations by councillors and Council staff. It believed that these requests failed any objective test of serious purpose or value.

### **The complainant's position**

23. In a detailed submission to the Commissioner the complainant disputed that the requests were vexatious. He provided the Commissioner with a large file of evidence including copies of his previous requests to, and correspondence with, the University.

24. The complainant explained to the Commissioner that he is involved in a community group for local residents and he submits requests relating to local issues. He considered that his requests covered typical issues you would expect a community group to raise.
25. The complainant argued that his requests were justified. He said that information disclosed in response to his previous requests uncovered wrongdoing by councillors at Bath and North East Somerset Council. He provided the Commissioner with a copy of an article published in the local media in April 2018 which stated that several councillors failed to declare hospitality they received from the University on time. The complainant also told the Commissioner that, as a result of his requests, the Council reviewed the matter through its Standards Committee and reduced the limit for declarations of hospitality from £50 to £25.
26. With regard to the serious purpose of the request the complainant said:

*"The question posed by the Upper Tribunal in the Dransfield case is helpful. I believe the questions do have a serious purpose, one supported by documentary evidence, real changes to council standards plus changes in the democratic process after an election, within the council. There is more to do. There can be few more important aims than protecting trust in democracy and ensuring councillors do not bring a council into disrepute. This is all backed up by the evidence of wider public interest and objective value."*

27. The complainant told the Commissioner that he believed the University was a potential site for a temporary stadium for Bath Rugby club. Although, he also stated that the University had "categorically denied" such plans. The complainant said that his requests were previously focussed on obtaining information about hospitality accepted by councillors, but requests two and three sought information regarding hospitality offered to Bath Rugby club.

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

28. The Commissioner has carefully considered both the complainant's and the University's arguments. She has reviewed the relevant information and evidence presented to her by both parties in order to reach her decision.
29. There are many different reasons why a request may be vexatious. Unreasonable requests can place a strain on public authorities' resources and get in the way of delivering mainstream services or responding to legitimate requests. In the Commissioner's view, 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.

30. When considering whether or not a request is vexatious, public authorities must essentially consider whether the purpose and value of a request outweighs the impact that responding to the request would have on its resources.
31. The context and history in which a request is made will often be a major factor in determining whether a request is vexatious, and the public authority will need to consider the wider circumstances surrounding the request before making a decision as to whether section 14(1) applies. In this case, the University considered that the particular context and history strengthened its argument that the requests were vexatious.
32. The Commissioner does not regard any of the three requests to be vexatious in isolation. However, when considered alongside the frequent series of related requests the complainant submitted, the Commissioner considers the requests would place a significant strain on the University's resources and contribute to the aggregated burden of complying with his requests.
33. The Commissioner's guidance states that the requester's past pattern of behaviour may also be a relevant consideration. For instance, if the authority's experience of dealing with the complainant's previous requests suggests that they won't be satisfied with any response and will submit numerous follow up enquiries no matter what information is supplied, this evidence could strengthen any argument that responding to the current request will impose a disproportionate burden on the authority.
34. In this case the University considers that the complainant will continue to submit further requests for information on related matters. The Commissioner agrees that the complainant is likely to continue to submit requests regarding the University's events. The Commissioner notes that on some previous occasions the complainant has been prompted to ask new questions based on the information disclosed in response to his requests. Also, the complainant often submits new requests before the University has had an opportunity to respond those he has already submitted. Over a period of 18 months the complainant submitted 25 requests relating to events, 16 of these requests overlapped.
35. Turning to the serious purpose of the requests, the Commissioner understands that the complainant has a keen interest in local issues. In particular, whether the University has an alternative agenda when providing hospitality to local representatives. The Commissioner is

aware that the complainant's previous requests revealed several councillors failed to declare hospitality received by the University. She recognises that this adds some weight to the complainant's argument that his requests have a serious purpose.

36. The University argued that its resources were being used to obtain information about the conduct of an entirely separate authority's employees. It said that the complainant had not alleged any inappropriate behaviour by the University as a result of the information disclosed in response to his requests regarding its hospitality. While it recognised the complainant's legitimate interest in its activities, it failed to see how any further requests about hospitality had any serious purpose or value.
37. The Commissioner recognises there is some merit in both of these arguments, but considers that the factor that carries the most weight is the University's reasoning that it should not be required to expend significantly from its own resources on a matter primarily concerned with Bath and North East Somerset Council. If the complainant believes that there is evidence of wrongdoing at that Council, he should pursue that via a more appropriate route, rather than continuing to make information requests to the University. The Commissioner does not find that the purpose of the requests outweighs the impact responding to them would have on the University's resources.
38. Taking all of the factors into consideration, the Commissioner finds that the requests were vexatious and the University was correct to apply section 14(1) to the requests.



## Right of appeal

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39. 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: 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)

40. 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.
41. 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 .....**

**Ben Tomes**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**