

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 April 2013

Public Authority: Information Commissioner's Office (ICO)
Address: Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Decision (including any steps ordered)

1. The complainant requested information relating to various court cases. The ICO refused the requests under s14 FOIA as they were considered vexatious.
2. The Commissioner's decision is that the requests are vexatious and so s14 was applied correctly. The ICO is therefore not obliged to comply with these requests.

Request and response

3. On 2 October 2012 the complainant requested the following information:

Subject: Department of Health, R (on the application of) v Information Commissioner [2011] EWHC 1430 (Admin) (20 April 2011)

(i) You should provide me with copy of the Court Order.

(ii) You should provide me the amount of money that had been paid to the Barristers instructed by the Information Commissioner.

(iii) I request your attention that if you could kindly have this request to be dealt with as soon as possible- There is a Judicial Review Claim Form Number CO/4526/2010 in the Administrative Court where the papers had been transferred to the High Court of Justice by the Upper Tribunal.

When replying to this Email than you should send a copy to the Administrative Court Office as soon as possible. Please kindly take notice of the Protection of Freedoms Act 2012 and The Constitutional Reform Governance Act 2010 also at the same time Section 63 (1) of the Freedom of Information Act 2000 does apply that the information requested is not exempt information.

On 4 October 2012 the complainant requested the following:

"You should provide me with the name of the Officer who is going to deal with the Claim Number CO/4526/2010."

On 7 October 2012 the complainant requested the following:

(i) You should provide a copy of the Law Reports: S –V- Newham London Borough Council (1998) EWCA CIV 339 (1998) 1 FLR 1061: (1998) EMLR 583 24th February 1998 CA Lord Woolf MR

(ii) You should confirm by Letter or Email that you do have the list of Authority 15th June 2012 Before Mr Justice Hickinbottom London Borough of Southwark Claimant/Respondent And Roy Ofogba Defendant/Appellant <http://www.bailii.org/ew/cases/EWHC/QB/1620.HTML> Case number 9PA37288 Appeal No QB/2012/0117 & QB/2012/0188 (Transcript of the Judgment 6 Pages This Appeal raises common and important routes of appeal in possession claims under the Access to Justice Act ("Destination of Appeals Order) 2000 (The Destination Order")

(iii) You should confirm that there is the Judgment given in the Divisional Court <http://www.bailii.org/ew/cases/EWHC/QB/2000/562.html> Case Number CO/2054/99 Before Lord Chief Justice of England and Wales (The Late Lord Bingham of Cornhill) And Mr Justice Morrison R V Director of Public Prosecutions Exparte Patricia Manning and Elizabeth Melbourne The Transcript of the Judgment does contain 18 Pages This Judgment does support our claim with regards to the Late Sumiya Ismail Bhamjee The Statutory Instrument 2000 No 221 The Civil Procedure Amendment Rule Schedule 2 CPR Part 19 Archer, R (2002) EWCA Crim 1996 (22nd July 2002) NCN: (2002) EWCA Crim 1996 Case number: 200104555/S2 <http://www.bailii.org.ew/cases/EWCA/Crim/2002/1996.html> Transcript of the Judgment 12 Pages"

4. On 23 October 2012 the ICO refused to comply with the requests under s14(1) FOIA.
5. The complainant appealed on 24 October 2012. On 3 November 2012 the ICO's internal review upheld the exemption at s14(1) FOIA.

Scope of the case

6. The complainant contacted the Commissioner on 7 November 2012 to complain about the way his request for information had been handled.
7. The Commissioner examined the three requests and the related correspondence from the complainant. He also examined the complainant's previous requests as referenced in the ICO's refusal notice.
8. This decision notice addresses the ICO's consideration of the complainant's requests as vexatious under s14(1) FOIA.

Reasons for decision

9. Section 14 FOIA provides that a public authority is not obliged to comply with an information request that is vexatious.
10. The Commissioner's published guidance on s14 FOIA¹ cites five factors for public authorities to take into account when considering refusing a request as vexatious:
 - (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.
11. Recent guidance on vexatious requests provided by the Upper Tribunal in *Information Commissioner and Devon County Council vs Mr Alan Dransfield* (GIA/3037/2011)² places emphasis on the importance of

¹

http://www.ico.gov.uk/for_organisations/guidance_index/~media/documents/library/Freed_of_Information/Detailed_specialist_guides/vexatious_and_repeated_requests.ashx

² <http://www.osscc.gov.uk/judgmentfiles/j3680/GIA%203037%202011-01.doc>

adopting a holistic and broad approach to the determination of whether or not a request is vexatious.

12. The Upper Tribunal's judgment proposes four broad issues or themes that public bodies should keep in mind when considering whether FOI requests are vexatious: (i) the burden of meeting the request; (ii) the motive of the requester; (iii) the value or serious purpose of requests; and (iv) any harassment or distress caused. It also concurs with the earlier First-tier Tribunal decision in *Lee vs Information Commissioner and King's College Cambridge* (EA/2012/0015, 0049 and 0085) that vexation implies an unjustified, inappropriate or improper use of a formal procedure.
13. The judgment notes that the four broad themes are "*not intended to be exhaustive, nor are they meant to create an alternative formulaic checklist*". It states the importance of remembering that Parliament has expressly declined to define the term 'vexatious'. Consequently, the four broad themes, "*should not be taken as imposing any prescriptive and all-encompassing definition upon an inherently flexible concept which can take many different forms.*"

Burden of meeting the requests

14. In refusing the requests the ICO explained to the complainant that it had taken into account the fact that he had emailed the ICO extensively over a period of months. Notably he had done so 45 times in the last three weeks alone. The ICO informed the complainant that this imposed a significant burden on its staff as each communication from the complainant needed to be carefully checked for any action required. In addition the complainant's correspondence was often unclear as to its purpose or in what was expected from the ICO. (The Commissioner notes that the seemingly 'straightforward' request of 4 October 2012 resulted from the ICO's own extrapolation of this from a medley of other court and tribunal references submitted by the complainant.) Owing to the volume and frequency of the complainant's correspondence and its lack of clarity the ICO said it was highly time consuming and disruptive for staff who had to decipher this.
 15. In the Commissioner's view the volume of the complainant's requests and related emails is excessive. (He notes that the complainant sent 51
-

request-related emails to the ICO within three weeks alone.) The Commissioner finds the complainant's requests to be often hard to decipher and lacking in meaning. Accordingly he recognises the burden that has been imposed on staff who have needed to apportion considerable amounts of time in attempting to decipher and deal with the mass of correspondence sent by the complainant. This apportionment of time has been at the expense of that afforded to appropriate FOI requests from the public.

Obsessive nature of the requests and the harassment caused

16. The ICO had previously informed the complainant that his correspondence was invariably lengthy and repeated the same themes – i.e. the complainant's interest in and pursuance of court and tribunal cases against various individuals and organisations. The ICO's refusal notice of 23 October 2012 informed the complainant that his three latest requests were in similar vein. These three requests were contained within a series of requests which the ICO considered to be obsessive. The ICO informed the complainant of its view that the issues about which he constantly contacted the ICO were clearly dominating his thoughts and were excessive in nature and degree.
17. The Commissioner's investigation of the complainant's requests made over several months finds that they all concern court and tribunal issues. Many of the requests contain random references to statutes that bear no relation to the apparent subject matter of the request. The three requests that are the subject of this decision notice follow the same pattern. The Commissioner notes that the seemingly 'straightforward' request of 4 October 2012 resulted from the ICO's extrapolation of this from a medley of other court and tribunal references submitted by the complainant. As a result of the Commissioner's investigation he finds the complainant's requests and related correspondence to be obsessive in both nature and extent. He is satisfied that the three requests in question are a continuation of this obsession.
18. The Commissioner agrees that the complainant's obsessive requests are harassing to the ICO. As referenced above they constitute a part of a larger bombardment of similar requests and related correspondence. The Commissioner notes that the complainant's requests frequently overlap and refer to the same or similar issues after these have been addressed. There is little indication that any response provided by the ICO will satisfy the complainant or will result in the complainant desisting from further correspondence with the authority in relation to the same issues. The Commissioner notes that some of the complainant's requests contain threats of unwarranted litigation against staff and as such are harassing to the individuals concerned.

The value or serious purpose of the requests

19. The ICO informed the complainant that in its view the three requests lacked any serious purpose or value. The complainant had previously been advised by the ICO that some of the information he had requested was already in the public domain. The complainant had also been informed previously that the ICO did not consider it necessary to provide the names of individuals dealing internally with a particular matter. He had been advised that any relevant contact with the ICO would be referred to the appropriate person if the content and purpose of the correspondence was made clear.
20. From his investigation the Commissioner considers the three requests to be one instalment of a long and protracted series of similar requests, each lacking in serious purpose or value. A large proportion of these requests consist of random and meaningless recitations of legal references and statutes. In the Commissioner's view any reasonable person would consider their content to be devoid of value or serious purpose.

Conclusion

21. The ICO informed the complainant that his three requests together with those sent previously had effectively abused the right to request information set out within section 1 FOIA. On the basis of his investigation the Commissioner agrees with this assessment.
22. In light of his investigation the Commissioner concludes that the complainant's requests are vexatious. The ICO is not therefore obliged to comply with these requests.

Right of appeal

23. 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

24. 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.
25. 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

**Rachael Cragg
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**