

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 November 2017

Public Authority: University of Bolton
Address: Deane Road
Bolton
BL3 5AB

Decision (including any steps ordered)

1. The complainant made a freedom of information request to the University of Bolton for information regarding the appointment of Baroness Warsi as Pro-Vice Chancellor. The University refused to respond to the request on the basis that it was vexatious within the meaning of section 14(1).
2. The Commissioner's decision is that the request can be characterised as vexatious and that section 14(1) was correctly applied. The Commissioner requires no steps to be taken.

Request and response

3. On 12 April 2017 the complainant made a freedom of information request to the University of Bolton which read as follows:

In respect of the appointment of Baroness Warsi to the position of Pro Vice Chancellor (Academic) University of Bolton In January 2016:

1. *What information was sent to potential applicants for the position of Pro Vice Chancellor (Academic) prior to the appointment of Baroness Warsi? Please supply a copy of the information pack that was sent out to prospective candidates.*
2. *Where was the position of Pro Vice Chancellor (Academic) advertised? Please supply a copy of the advertisement.*

3. Please supply a copy of the job description and person specification for the position of Pro Vice Chancellor (Academic) University of Bolton as issued to applicants.

4. How many candidates applied for this position of Pro Vice Chancellor (Academic) University of Bolton and how many candidates were shortlisted?

5. What was the selection method used to appoint the successful candidate, to the position of Pro Vice Chancellor (Academic) University of Bolton ? (interview, presentation, assessment centre etc)?

6. Was the appointment of Pro Vice Chancellor (Academic) made by the authority of the Vice Chancellor or by the Board of Governors of University of Bolton ?

In respect of Baroness Warsi's current role:

7. What are her current duties and responsibilities as Pro Vice Chancellor (Academic) of The University of Bolton?

8. Please list those official meetings or other official engagements attended by Baroness Warsi between April 2016 -April 2017, in her role as Pro Vice Chancellor (Academic), whether on or off University of Bolton Campus.

4. The University did not respond to the request.

Scope of the case

5. On 17 May 2017 the complainant contacted the Commissioner after failing to receive a response to his request.

6. Following receipt of the complaint the Commissioner contacted the University to confirm its position. In response the University said that it considered the request to be vexatious under section 14(1) of FOIA and that in refusing to acknowledge or respond to the request it was relying on section 17(6) of FOIA. Section 17(6) of FOIA provides that the obligation to issue a refusal notice to an applicant does not arise where:

(a) the public authority is relying on a claim that section 14 applies,
(b) the authority has given the applicant a notice, in relation to a previous request for information, stating that it is relying on such a claim, and

(c) it would in all the circumstances be unreasonable to expect the authority to serve a further notice under subsection (5) in relation to the current request.

7. Following further discussions between the University and the Commissioner it said that it would be willing to comply with the request in an effort to resolve the case informally. It explained that Baroness Warsi had not been appointed to the post of Pro Vice Chancellor (Academic) and that therefore the requested information was not held. The complainant was informed of this but did not consider this to be a satisfactory response to his complaint and therefore refused to withdraw his complaint.
8. The Commissioner considers the scope of her investigation to be to consider whether the University was correct to refuse to comply with the request under section 14(1) of FOIA.

Reasons for decision

Section 14(1) – Vexatious requests

9. Section 14(1) of FOIA provides that a public authority is not obliged to comply with a request for information if the request is vexatious.
10. The term 'vexatious' is not defined in the FOIA. The Upper-tier Tribunal considered the issue of vexatious requests in the case of the *Information Commissioner vs Mr Alan Dransfield (Dransfield)* and concluded that the term could be defined as "manifestly unjustified, inappropriate or improper use of a formal procedure".¹
11. The *Dransfield* case identified four factors that may be present in vexatious requests:
 - the burden imposed by the request (on the public authority and its staff)
 - the motive of the requester
 - harassment or distress caused to staff
 - the value or serious purpose of the request.

¹ Information Commissioner and Devon County Council vs Mr Alan Dransfield [GIA/3037/2011], para. 27.

12. The Commissioner has also identified a number of 'indicators' which may be useful in identifying vexatious requests. These are set out in her published guidance on vexatious requests.² In short they include:
- abusive or aggressive language
 - burden on the authority
 - personal grudges
 - unreasonable persistence
 - unfounded accusations
 - intransigence
 - frequent or overlapping requests; and
 - deliberate intention to cause annoyance.
13. 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 a case will need to be considered in reaching a judgement as to whether a request is vexatious.
14. The Commissioner's guidance suggests that, if a request is not patently vexatious, the 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. In doing this the Commissioner considers that a public authority should weigh the impact of the request on it and balance this against the purpose and value of the request.
15. Where relevant, public authorities also need to take into account wider factors such as the background and history of the request. However, it is important to recognise that one request can in itself be 'vexatious' depending on the circumstances of that request.
16. In this case the University has argued that the complainant is acting as part of a campaign aimed at targeting and discrediting members of the University's senior management. Therefore, it says that the request should not be seen in isolation but in the context of requests made as part of that campaign including the requests and correspondence from the complainant as part of what it says is a pattern of vexatious behaviour originating from the his long standing antagonism towards the University and its staff.

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

17. The Commissioner's guidance on vexatious requests makes it clear that if a public authority has reason to believe that several different requesters are acting in concert as part of a campaign to disrupt the organisation by virtue of the sheer weight of FOIA requests being submitted, then it may take this into account when determining whether any of those requests are vexatious. The Commissioner will consider this issue first before going on to consider the various factors which the University says make the complainant's request vexatious.

18. The complainant is a member of a group called the Campaign for an Ethical University of Bolton (CEUB). This is not in dispute. The University referred to various pieces of evidence and correspondence from the complainant and from this it would appear that the complainant is a prominent member of the campaign.

"I am a member of a campaign group concerned about 'senior management and governance' at UOB".

"The campaign group will continue to monitor events as reported about UOB and distribute on our blog". (email to Baroness Warsi 24 January 2016)

"The Campaign for an Ethical University of Bolton has submitted more than 20 Freedom of Information requests..." (letter to the Bolton News 26 September 2015.

19. The University also referred the Commissioner to a copy of minutes of a meeting of the Campaign where freedom of information requests were discussed. In particular the Campaign agreed that the FOI requests should be sent via the 'whatdotheyknow.com' website so that requests are public and can be tracked. This suggests to the Commissioner that freedom of information requests by members are being coordinated by the CEUB as part of their campaign.

20. The Commissioner is also aware that the complainant has commented on requests made by other individuals whom the University considers to be associated with the campaign, via the whatdotheyknow website and the complainant has linked to the CEUB's website when contacting the University. The Commissioner has also taken into account that there is a similarity between the different requests and that they relate to issues that have been discussed on the CEUB website.

21. The University also referred to an announcement from the group where it said that it had submitted over 20 requests. When the timing of this announcement is compared with the list the University compiled of the

requests it had received it seems very likely that the CUEB had included requests made by the complainant when citing this figure of 'over 20'.

22. The evidence provided by the University of Bolton leads the Commissioner to conclude that the complainant is an active member of the CEUB and that his request was submitted as part of that campaign. Therefore, the Commissioner accepts that it is appropriate that the request is not considered in isolation but in the context of the requests and correspondence received by the University as part of that campaign.
23. The Commissioner would also say at this point that she is aware that the complainant has previously appealed a decision notice to the First Tier Tribunal which concerned a request to the University of Bolton and which had also been refused under section 14(1).³ The Commissioner had upheld the University's application of section 14(1) but this was overturned on appeal and the Tribunal also found that the request in that case was not part of any campaign. The Complainant has referred to the Tribunal's decision in support of his position that his request was not vexatious. On this point the Commissioner would simply say that all requests must be viewed on their individual merits and she is not bound by decisions of the First Tier Tribunal. In any event, it appears that the University has provided the Commissioner with a fuller history of the complainant's activities which may not have been made available to the Tribunal.
24. In discussing the reasons for refusing the complainant's request the University structured its arguments under the following headings:
 - Significant burden in terms of expense and distraction
 - Designed to cause disruption and annoyance
 - Effect of harassing the public authority or its staff
 - Fairly characterised as obsessive or manifestly unreasonable
 - Lacking any serious purpose or value
25. The Commissioner has used these headings when detailing the University's arguments below but also notes that these headings reflect an older version of the Commissioner's guidance where she suggested factors to consider when deciding if a request is vexatious. However the Commissioner will also go on to add her own observations and conclusions in light of the approach taken in the *Dransfield* case.

³ Mr Joseph Whittaker v The Information Commissioner [EA/2016/0020]

Significant burden in terms of expense and distraction

26. The University said that in light of its belief that the complainant's requests were part of a wider campaign agenda it had aggregated his requests with others received from those who it considers have been collectively acting in pursuance of the campaign. The University provided the Commissioner with a record of the various requests it had received which showed that it has received 38 requests from individuals it believed were part of the campaign since January 2015 of which 11 were from the complainant. In addition, the University has received numerous items of correspondence from the complainant on related issues.
27. The University explained that it had already spent a significant amount of time and associated cost responding to requests and complaints submitted by those who have been collectively orchestrating the campaign. It said that whilst the complainant's request in itself may not impose a significant burden, its experience suggested that any response it sent to the complainant would only result in further requests, correspondence and the generation of wider publicity in various media and forums.
28. The University went on to say that dealing with the complainant's requests had also become a diversion and distraction from its other work. It described itself as a small educational institution and said that a significant burden had been placed on the University due to continued and protracted correspondence with the complainant and others. It said that the expenditure of time on this had diverted staff from its core functions and business purposes.

Designed to cause disruption and annoyance

29. The University said it recognised and acknowledged that a person is entitled to make a request that incidentally causes annoyance. However, it argued that that the primary purpose of the complainant's request was to be provocative, cause annoyance and irritation and disrupt the workings and operation of the University by seeking to attack the senior management team and board of governors with untrue and unfounded allegations.

Effect of harassing the public authority or its staff

30. The University acknowledged that the request by itself does not contain evidence of deliberate harassment. However, it said that when put into the context of the complainant's long standing issue with the University

and the correspondence which has originated from it, the request can be said to have the effect of harassing the University.

31. The University referred to correspondence from the complainant, posts on social media and letters to a local newspaper as evidence of the harassing effect of the complainant's requests.

"I worked at the University of Bolton for 24 years – I have campaigned for the return to an ethical University of Bolton and the removal of [a named individual] as Vice-Chancellor for the past 3 years" (11 Feb 2017)

"It appears that bury college is pulling out of the merger with the uni. [a named individual] has fell out with [a named individual], the principal of the college. They were good buddies but bury got a bad inspection report and [a named individual], who has moved into the uni, next to [a named individual], is not good at anything except charming people with crap." (31 March 2016)

"[a named individual] is a Trump Character, he uses alternative truths, he bullies, he has an ego that allows him to dress up in Queen's servant outfit, and believes it makes him honourable!" (2 Feb 2017)

"[a named individual] – University of Bolton is the Trump of the University Sector – but without Trump's self-deprecation!" (2 Aug 2017)

"This is an utter embarrassment to the teaching staff and students of the University – what are the governors and the senior management intending to do? #[a named individual]has to go!" (2 Aug 2017)

"I do believe that the VC and his cronies will collapse in the toxic pool of corruption they have created..." (2 Feb 2017)

"Question.

How many (dis) Honorary Doctorates does it take to prop up the corrosive subsidence of your [a named individual]?

Answer.

Don't know, but just keep dishing them out to any Tom Dick or Harriet, who is naive enough to grab one and shovel them in."

32. The University also referred the Commissioner to a blog produced by the CEUB where it said that the complainant had posted offensive

statements about named individuals of the University and Board of Governors.

33. The University believes that it is the intent of the CEUB and the complainant to seek to cause the University and named individuals distress and reputational damage by making what it described as "continued unfounded allegations and insinuations alleging financial and procedural irregularity including mismanagement and wrongdoing". It referred to the following statements made by the complainant:

"I am requesting information on the funding of BWFC and its new owners by the University of Bolton. I have evidence that [a named individual] is corrupt and is laundering money from the Isle of Man to keep BWFC a float using his contact [a named individual] and the University of Bolton. Public money from the University is again being used to cover up the corrupt deals."

"I have copies this FOI request to the press and I am campaigning for an ethical club. Supporters will be asked to withdraw their support for the BWFC until [a named individual], [a named individual] and [a named individual] are brought to Justice". (7 Nov 2016).

34. The University said that these unfounded allegations had continued to be made despite the fact that the University is regulated by the Higher Education Funding Council for England (HEFCE) as an exempt charity, with a wholly independent external audit function provided by Grant Thornton and Scott-Moncrief and a wholly independent internal audit function, provided by Price Waterhouse Coopers. It also referred to the fact that it provides and publishes financial statements and audited accounts to HEFCE and fulfils all other regulatory requirements.
35. Finally, the University referred to an incident where it said the complainant had actively remonstrated on the University campus and where an incident report was logged by the University's security staff. The Commissioner notes, however, that the University's version of the incident is disputed by the complainant.

Fairly be characterised as obsessive or manifestly unreasonable

36. The University said that when viewed in isolation the request may appear reasonable but that when considered in context it could justifiably be seen as obsessive and unreasonable.
37. The Commissioner understands that the University has received 38 requests associated with the CUEB relating to the University Vice Chancellor, senior management and University Governors. 11 of those

requests were made by the complainant. The University explained that the complainant has also used several other avenues of enquiry in the hope of redress against the University, making a further 6 requests to Bristol University, London School of Economics, HEFCE, the Department for Education, Bury College and Bolton College. All these requests, the University said, were in relation to the Vice Chancellor and the complainant's allegations of corruption, collusion and poor governance.

38. The University argued that the complainant has an unwillingness to accept or engage with contrary evidence and is obsessed with his own particular viewpoint to the exclusion of any other. It said that any information that it provides is not accepted by the complainant but instead triggers further communications and requests. By way of an example it referred to its response to a request from the complainant (at the direction of the First Tier Tribunal) where it explained that the University did not commission any building work within Bolton One (Bolton One is a health, leisure and research centre, built through a partnership between Bolton Council, NHS Bolton and the University of Bolton) since January 2012. This then led the complainant to directly contact the dental practice within Bolton One as follows:

"Why are you operating in a publicly funded building rent free? How long has this arrangement been allowed to continue and are your customers aware of your relationship with [a named individual]?"

"Why did the University of Bolton pay for the building of your dental surgery at Bolton One?"

39. The University argued that all of the complainant's requests have the aim of pursuing his belief of fraudulent and corrupt conduct by the University, senior management of the University and other organisations. It said that the complainant in continuing to request information and making continued allegations to and about the University, other public bodies and regulators is indicative behaviour of someone that is going beyond the pursuit of information.

The request lacks any serious purpose or value

40. The University argued that the complainant's request is not a reasonable and proportionate way of pursuing a legitimate quest for information. It suggested that any legitimate or serious purpose that the complainant may claim was unnecessary since part of the requested information was or is already in the public domain. For instance, parts 7 and 8 of the complainant's request asked for information about Baroness Warsi's duties and responsibilities as well as details of meetings and

engagements she has attended. The University explained that this information was readily available on its website.

41. The University is strongly of the view that the request has been submitted “knowingly and deliberately in the context of an overall vendetta campaign” due to similar themed requests regarding University senior management. It said that it had concluded that the request was submitted with the sole intention of “harassing and to wrongly impugn the integrity and honesty of the University, its senior management team and Board of Governors irrespective of the content of the request”.
42. The University went on to say that in its view there is minimal public benefit in the requested information which it said merely serves to try and bring the institution into disrepute by making unfounded insinuations and inferences. Therefore, it was lacking any intrinsic merit, it said.
43. Finally, the University said that whilst the complainant may purport that his request promotes transparency and integrity in a public authority, this is outweighed by the other considerations which had led it to conclude that the request is vexatious. The request originated from a vendetta campaign, it said, and lacks regard for any serious use of the Act.

The complainant's view

44. The complainant referred to the previous decision of the First Tier Tribunal in support of his complaint that his request was not vexatious. The complainant also suggested that there was a need for “honesty and transparency” regarding the appointment of Baroness Warsi.

The Commissioner's view

45. The Commissioner has considered the University's arguments and would accept that when viewed in the context of the complainant's other requests and correspondence, and the requests submitted by other members of the CEUB, the request can fairly be characterised as vexatious.
46. The complainant's requests and correspondence, and those of the CEUB are placing a burden on the University's resources and the request which is the subject of this notice is contributing to that aggregated burden. Whilst the complainant may believe that disclosure would serve a wider public interest in terms of promoting transparency, the Commissioner is satisfied that any serious purpose is outweighed by the distress and burden imposed on the public authority. Furthermore, any

response the University would send to the complainant is, in the Commissioner's view, unlikely to satisfy him given the stated purpose of the campaign group and will only lead to and encourage further requests in the future.

47. It is very clear that the complainant is pursuing a grievance against the University and its Vice Chancellor in particular. The Commissioner is satisfied that the request is part of that campaign and when the history of the complainant's various interactions with the University is taken into account it can be said to be vexatious. The complainant's desire to prove that there is corruption or malpractice at the University has now gone beyond what is reasonable. The frequency of requests received from members of the CEUB as well as other correspondence is also likely to have had the effect of harassing the University and its staff.
48. As to the motive or purpose of the request, the Commissioner has taken into account the fact that much of the complainant's correspondence with the University appears to serve little purpose other than to be provocative and in some cases insulting to individuals within the University. This suggests that the request is at least in part designed to cause annoyance or else the purpose of the request goes beyond a simple quest to seek information around the appointment of Baroness Warsi.
49. In reaching her decision the Commissioner has taken into account the personal and abusive nature of some of the complainant's requests and correspondence, the accusations made against members of the University's senior management team and the intransigent nature of some of the correspondence. These reflect several of the indicators in the Commissioner's guidance which might suggest that a request is vexatious.
50. The Commissioner has concluded that the context and history behind the complainant's requests is such that the disruption and distress it causes is unjustified and disproportionate. It is conceived as part of a campaign to target members of the University's staff and this amounts to an inappropriate use of FOI.
51. The Commissioner has decided that section 14(1) was correctly applied.

Right of appeal

52. 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@hmcts.gsi.gov.uk

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

53. 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.
54. 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

Paul Warbrick
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF