

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 March 2024

Public Authority: Aston Community Education Trust

Address: ACET House
66 Holderness Drive
Aston
Sheffield
South Yorkshire
S26 2BH

Decision (including any steps ordered)

1. The complainant has requested information from Aston Community Education Trust (ACET) relating to a parent/carer governor election process. ACET refused to provide the requested information, citing section 14(1) of FOIA – vexatious request.
2. The Commissioner's decision is that the request was vexatious and that ACET was entitled to rely on section 14(1) of FOIA.
3. The Commissioner does not require further steps.

Request and response

4. On 8 November 2023 the complainant wrote to ACET and requested information in the following terms:

“Please provide the following information pertaining to the recent parent/carer governor election process:

1. Total vote cast including duplicates and 'fakes' - ideally numerically sorted by unique voter ref/code.

2. Total number of unique voter ref/codes issued.
3. Total number of unique voter ref/codes allowed.
4. Total number of duplications to same unique voter ref/code.
5. Total number of potential voter exclusions
6. Clarification of vote allocation process - IE votes per student, votes per individual parent/carer, votes per household
7. Name and role title of the Electoral Administrator
- 8.. Date the specific Role Descriptor was made available to [redacted name]
9. Confirmation of time period results information will be retained.
All relating to : Session id: cd1942bb-1cd6-420b-bed0-3caa78e6d1a8, Correlation id: 8f01e7f8-7b38-4c83-945e-f901835e8a23.

Information is requested in Excel file format.”

5. On 13 November 2023 ACET refused to provide the requested information, citing vexatious request (section 14(1) of FOIA) – within a letter addressing wider complaint matters. The complainant disputes that they received this letter.

Scope of the case

6. The complainant contacted the Commissioner on 8 December 2023 to complain about the way their request for information had been handled. They said that ACET had not responded to their request.
7. The Commissioner considers that the scope of his investigation is to look at ACET’s citing of section 14(1) of FOIA.

Reasons for decision

Section 14 – vexatious request

8. The ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
9. The emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) ("Dransfield")¹. Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.
10. Dransfield established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
11. The four broad themes considered by the Upper Tribunal in Dransfield were:
 - the burden (on the public authority and its staff);
 - the motive (of the requester);
 - the value or serious purpose (of the request); and
 - any harassment or distress (of and to staff).
12. In his guidance, the Commissioner explains that - "Although satisfying section 14(1) is a high hurdle this does not mean that [a public authority] can only apply it in the most extreme circumstances, or as a last resort".
13. The Commissioner has referred to his own guidance² and the submissions provided to him by ACET and the complainant in making his decision as to whether this particular request was vexatious.

The complainant's view

14. The complainant provided the Commissioner with arguments supporting their view that the request they had submitted was not vexatious. The complainant gave some context and background to the Commissioner

¹ <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

² [Dealing with vexatious requests \(section 14\) | ICO](#)

but because it is personal and could lead to the identification of the complainant it has not been reproduced here. However, the Commissioner has taken these arguments into account when making his decision.

15. The complainant has detailed their belief that "certain ACET academies are failing students" and states that "OFSTED have now downgraded the academy and another in the ACET trust". The complainant says that ACET "regularly sought to have complainants withdraw or down play their complaints with hollow promises of resolution and prompt actions".
16. The complainant contends that "ACET personnel continually make efforts to avoid accountability and transparency". They also contend that ACET has "refused to provide information made available to others" and that "if any other member of the general public submitted this request, there would be no issue". The complainant is "not aware that any other person has had their FOIs intentionally refused, ignored or denied". They also say that ACET "representatives" made "disparaging remarks" about them.
17. The complainant tells the Commissioner that they are "being denied access to this information. (If so, I consider this to be an unjust, targeted, retaliatory action)". The complainant needs the information and is not content that they have not been informed if the information they requested is held or not -

"My FOI in this instance should not be difficult for the trust to satisfy unless, it has not followed a compliant process or maintained appropriate records. I get the distinct impression that there are significant potential wrongdoings within this organisation and in this instance, may also be purposely avoiding and/delaying to a point beyond when they are meant to keep these records..."

ACET's view

18. Firstly, ACET stressed to the Commissioner that it did not take the decision to refuse the request "lightly". It pointed to the contextual information in the 13 November 2023 letter from the Chair of Governors which, amongst other issues, advised the complainant that the request was considered vexatious. ACET provided its arguments under the following three headings.

"Details of the detrimental impact of complying with the request"

19. ACET explained that this request "centred around the voting process for the parent/carer governor elections which had recently been held". ACET then provided some contextual information in support of its view that

the request was vexatious. Due to its personal nature this cannot be reproduced here but it was detailed in order to support the position it had eventually taken. ACET had received several emails requesting information relating to a particular role. It describes this as having been done "with some degree of impatience, despite being advised that the information would be forthcoming".

20. It underpins its arguments by saying that there had been -

"numerous e mails and phone calls directed towards the CEO, who had taken on responsibility for overseeing the process, that providing the information would potentially have led to further complaints, postings on social media and attempts to bring the Academy and trust into disrepute".

ACET recounts an example where the CEO had been contacted "directly over the half term holiday and the complainant had stated, 'As you're now running the process and appear to be in work, is there any reason this can not be done now?'"

21. ACET characterises this as typifying "the demanding, harassing nature of requests made by the complainant". Due to this, the Chair of ACET "felt compelled to write" to the complainant "in order to protect staff from more of the same". In that letter the Chair details their view that the complainant's "emails are frequently aggressive, sarcastic and contemptuous towards the recipient". The same letter advised that future complaints would be "read and filed, but not acknowledged, unless it is deemed to contain important, new information".

"Why the impact would be unjustified or disproportionate in relation to the request itself and its inherent purpose or value"

22. The Commissioner cannot provide some of the argument that has been presented to him but ACET has argued that providing the complainant with all of the details they had requested would give them a "platform for discrediting the process..." ACET states that it has received no other requests prior to this one in relation to the administration of the parent/carers governor election process.

23. ACET suggests that, "There is also the potential for this request...to lead to more requests or dialogue of the same "repetitious criticism of Aston Academy and ACET and rhetorical passive aggressive questions" (as set out in the Chair of Governors letter that contained the refusal notice). The letter outlined "the detrimental toll...taken on staff".

24. ACET questions what purpose there is in providing the requested information "except to cause further disruption, distress and work for colleagues who are there to support children across the trust".

"Details of the wider context and history"

25. ACET had utilised the Commissioner's audit tool³ from his website in determining its reasons for not complying with the request.
26. It describes the nature of the correspondence from the complainant as "prolific" – 82 emails in 42/43 working days. It draws the Commissioner's attention to Betts vs ICO (EA/2007/0109 19 May 2008) and the "tone and nature of some of the requests". The Chair's letter also refers to the number of FOI requests in the six months before this request was made.
27. ACET acknowledges that the "request from the complainant on its own may be considered as simple" but its view from "our own experience of the complainant is that providing this information would perhaps, inevitably lead to further correspondence, requests and complaints". It presents it as a -

"pattern of behaviour aimed at putting unnecessary pressure on Senior Leaders within the trust (who the complainant has referred to as 'toxic' on social media platforms) and causing distress with the obsessive, harassing nature and frequency of the requests".

28. ACET confirms that it has complied with past FOI requests from the complainant, "only to find the information requested being used out of context and without the supporting facts on social media platforms in order to discredit the Academy". It provides an example of "where the complainant had requested details of the teaching supply agency budget" for ACET -

"over a 4 year period. The raw data was quoted in isolation on social media with no context (for example, what percentage of the total budget the figure represented and whether the supply was required due to ongoing job vacancies or sickness absence)".

³ [Topic 3 – Section 14\(1\) – Vexatious requests | ICO](#)

Contextual information was not requested - "only the bottom line figure which appeared to suit the narrative of the complainant at the time, to discredit the Academy and the trust".

29. ACET also drew the Commissioner's attention to another complaint case where the complainant said that they had not received the information that ACET states it had sent. It provided the Royal Mail tracking number, with photo evidence that the letter had been delivered. The ICO sent a copy to the complainant. The letter had been sent "by post rather than e mail to avoid any ongoing dialogue..."
30. ACET's view is that, although it has cited section 14(1) to this request - "this case represents a small snapshot of the time and effort ACET staff are having to devote to dealing with what feels like a bombardment of requests, some of which are duplicates..."

The Commissioner's view

31. Firstly, the Commissioner is unable to provide some of the details given by ACET and the complainant for the reasons given earlier in this decision notice. However, they have informed the Commissioner's decision in this matter. The Commissioner's guidance states that the context and history of the request is often a major factor in determining whether the request is vexatious and may support the view that section 14(1) applies.
32. The complainant believes that they are merely exercising their right to access information under the FOIA and provided argument to that effect. ACET has also provided argument to support its view that this particular request is vexatious. The two views appear to be irreconcilable and have emerged from a context and history that is personal and represents a breakdown in relationship between the complainant and the public authority. The Commissioner considers that it is likely that compliance with this request would lead to further information requests around the same subject. He accepts that the inherent value or purpose of this particular request is not equal to the drain on the resources of a small public authority and the demoralising effect of the communications on its staff. Consequently the request was vexatious.

Right of appeal

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: 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.

Janine Gregory
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