

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 16 August 2012

**Public Authority:** The Attorney General's Office  
**Address:** 20 Victoria Street  
London  
SW1H 0NF

### Decision (including any steps ordered)

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1. The complainant requested information about an official in the Attorney General's Office (AGO). The AGO refused to comply with the request relying on section 14(1) of FOIA.
2. The Commissioner's decision is that the AGO was entitled to rely on section 14. He requires no steps to be taken.

### Request and response

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3. The complainant wrote to the Attorney General's Office on 17 January 2012 and requested information in the following terms:

"...

1. *Is [named individual] employed by the office of the Attorney General?*
2. *Is there more than one person using the name referred to at 1. above?*
3. *In what capacity is [named individual] employed?*
4. *What is the date of birth of [named individual]?*
5. *What is the full name of [named individual] as disclosed on his birth certificate?*
6. *Answer all of the above five questions in respect of any person using the name [redacted] spelt in any and every which way possible and known to the office of the Attorney General."*

4. The AGO responded on 18 January 2012. It cited section 14(1) of FOIA on the basis that it considers that the request is vexatious.
5. Following an internal review the AGO wrote to the complainant on 4 April 2012 upholding that view.

### Scope of the case

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6. The complainant contacted the Commissioner to complain about the way his request for information had been handled. In particular, he explained:

*"the issue goes to the authenticity of [named individual] and whether or not such a person exists and or is in the employ of the attorney general's office".*
7. The Commissioner understands that there has been a history of correspondence between the complainant and the AGO on a separate matter and that, at one point, the complainant received correspondence from the AGO's office signed by an official of that office - the individual named in the request.
8. The Commissioner considers the scope of his request to be whether the AGO correctly applied section 14 FOIA to the complainant's request.

### Reasons for decision

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9. Under section 14(1), a public authority does not have to comply with a request for information if the request is vexatious. There is no public interest test.
10. In order to assist public authorities in answering that key question, the Commissioner's Guidance<sup>1</sup> identifies five relevant considerations.
  - Could the request fairly be seen as obsessive?
  - Is the request harassing the authority or distressing to staff?

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<sup>1</sup>

[http://www.ico.gov.uk/for\\_organisations/guidance\\_index/~/\\_media/document\\_s/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/vexatious\\_and\\_repeated\\_requests.ashx](http://www.ico.gov.uk/for_organisations/guidance_index/~/_media/document_s/library/Freedom_of_Information/Detailed_specialist_guides/vexatious_and_repeated_requests.ashx)

- Would complying with the request impose a significant burden in terms of expense and distraction?
  - Is the request designed to cause disruption or annoyance?
  - Does the request lack any serious purpose or value?
11. In the Commissioner's view, an affirmative response to all of the questions is not necessary for a request to be deemed vexatious. However, he considers that, in order to judge a request as vexatious, a public authority should usually be able to make persuasive arguments under more than one of the above headings.
12. Accordingly, the Commissioner has considered whether the AGO has provided sufficient arguments in support of any of the criteria above in its application of section 14(1) in this particular case.

*Could the request fairly be seen as obsessive?*

13. In the Commissioner's view, the test to apply here is one of reasonableness. In other words, would a reasonable person describe the request as obsessive or manifestly unreasonable?
14. During the course of his investigation, by way of background to its handling of the request at issue in this case, the AGO told the Commissioner that the complainant:
- "has been a prolific correspondent with this office since 2008".*
15. It went on to explain that, ultimately, the AGO's office wrote to the complainant explaining that it would no longer be replying to his correspondence. The Commissioner understands that the request for information in this case relates to the official who sent that letter.
16. The Commissioner accepts that there is often a fine line between obsession and persistence and each case must be considered on its own facts. In answering the question regarding whether a request can be seen as obsessive, the Commissioner's view is that the wider context and history of a request is important as it is unlikely that a one-off request could be obsessive.
17. In this case, taking into account the context and background to the request, the Commissioner considers that the request can fairly be seen as obsessive.

*Is the request harassing the authority or distressing to staff?*

18. The Commissioner considers that relevant factors could include the volume and frequency of correspondence, the use of hostile, abusive or

offensive language, an unreasonable fixation on an individual member of staff, or mingling requests with accusations or complaints. In this case, he notes that the request seeks personal information about a named individual and their status in the AGO's office.

19. When the AGO wrote to the complainant to tell him that it had concluded that his request was vexatious, the AGO said that it considered the request to be *"designed ... to harass our office and cause distress to staff"*.
20. The complainant asked the AGO to review that decision on 8 March 2012. The AGO wrote to the complainant later that same day, telling him:

*"We hope to respond to your email by 5 April"*.

21. The next day – 9 March 2012 - the complainant wrote to the AGO:

*"Your intended response notwithstanding that there are no new issues for consideration lacks urgency. Your office formulated a response to the original request in less than 24 hrs. It is therefore unreasonable that you should now require almost a month to respond and I therefore ask that you do so within 5 days from the date of this email"*.

22. Notwithstanding that the tone of the complainant's correspondence is polite, in the Commissioner's view the correspondence supports the argument that the cumulative effect of the request was to harass the public authority and its staff.

*Would complying with the request impose a significant burden in terms of expense and distraction?*

23. The Freedom of Information Act was enacted to assist people in seeking access to recorded information held by public authorities. However, it was not the intention of FOIA to distract public authorities unreasonably from their other duties or for public money to be spent unproductively.
24. In the Commissioner's view, the request in this case is not particularly complex or demanding. Indeed, the AGO has not argued that compliance with this request in isolation would create a significant burden or distraction.

*Is the request designed to cause disruption or annoyance?*

25. In the Commissioner's view, as this factor relates to the requester's intention, it can be difficult to prove. The AGO argued that, taken in the

context of the complainant's previous correspondence with its office, the request in this case is designed to cause disruption.

26. Having considered the matter, the Commissioner finds no evidence that the request is designed to cause disruption or annoyance. He has therefore not given any weight to this factor.

*Does the request lack any serious purpose or value?*

27. With respect to the request under consideration in this case, the complainant told the AGO:

*"I am quite sure that you recognise the point of my request";*

and

*"I refer to the above-mentioned in particular your refusal to provide the information sought on the grounds that the application is vexatious. Nothing could be further from the truth and to suggest same is illconceived and feeble in the extreme [sic]".*

28. Whether a request has value is not usually a relevant consideration in freedom of information requests, since FOIA is not concerned with the motives of an applicant, but rather in promoting transparency for its own sake. However, the Commissioner acknowledges that should any authority be able to show that a request has no value or purpose, this may help bolster the application of section 14(1) when taken together with other supporting factors.
29. During the course of the Commissioner's investigation the AGO confirmed its view that, given the background to the request, it considered that the request has no purpose or value. In support of its argument, it provided the Commissioner with details of the background to the request.

*Is the request vexatious?*

30. The Commissioner acknowledges that each request needs to be considered on its own merits. However, that does not mean that requests can be viewed in isolation. In considering whether or not a request is vexatious, the Commissioner considers it both reasonable and relevant to take into account the wider context and history in which the request was made in addition to the request itself in relation to one or more of the five factors listed above.
31. Section 14 of FOIA is intended to protect public authorities from those who might abuse the right to request information. The Commissioner recognises that having to deal with clearly unreasonable requests can

strain an organisation's resources, damage the credibility of FOIA and get in the way of answering other requests.

32. In considering the circumstances of this case in relation to the five questions set out above, the Commissioner acknowledges that, to a greater or lesser extent, the questions overlap and that the weight accorded to each will depend on the circumstances. He also reiterates that, in his view, it is not necessary for every factor relevant to vexatious requests to be satisfied in order to refuse a request on the basis of section 14(1).
33. In this case the Commissioner considers that there are sufficient grounds to uphold the application of section 14(1). He considers that the obsessive nature of the request, when taken in the context of the previous correspondence and its impact on the public authority and its staff, is sufficient for the request to be deemed as vexatious

## Right of appeal

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34. 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](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

35. 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.
36. 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** .....

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
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