

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 June 2016

Public Authority: Home Office
Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant requested information relating to work carried out by a named Home Office official. The Home Office refused this request as vexatious under section 14(1) of the FOIA.
2. The Commissioner's decision is that the Home Office cited section 14(1) correctly so it was not obliged to comply with this request.

Request and response

3. On 20 August 2015 the complainant wrote to the Home Office and requested information in the following terms:

"Can you please confirm how many requests [named Home Office official] handled / responded to during the above period [19/09/14 to 31/01/15].

Can you please confirm the Home Office reference numbers for the requests she handled.

Can you please provide the date the communications were sent by [named Home Office official]."

4. The Home Office initially did not respond to the request. It later clarified that it had relied on section 17(6) of the FOIA when not responding to this request, which provides that a public authority is not obliged to respond to a request that is vexatious where it has previously issued a

section 14(1) refusal notice and it would not be reasonable to expect it to issue a further such notice.

5. The complainant wrote again to the Home Office on 19 September 2015 and requested an internal review. After a lengthy delay, the Home Office responded with the outcome of the review on 22 February 2016. The conclusion of this was that the refusal under section 14(1) was upheld.

Scope of the case

6. The complainant contacted the Commissioner on 25 February 2016 to complain about the refusal of his information request. The complainant indicated that he did not agree with the refusal of his request under section 14(1).
7. The following analysis covers the reliance by the Home Office on sections 14(1) and 17(6). The delay to the completion of the internal review is also commented on in the "Other matters" section below.

Reasons for decision

Section 17

8. As mentioned above, the Home Office relied on section 17(6) when not responding to this request. The approach of the Commissioner is that a public authority should only rely on this provision where it has previously informed the requester that further requests considered vexatious will not be responded to.
9. In this case, the Home Office stated that it cited section 14(1) in a number of other responses issued to the complainant in 2015 and that some of these warned the complainant that further responses would not be sent to other requests that were believed to be vexatious. For the reasons given below, the Commissioner finds that the request in this case was also vexatious. He also finds that it would have been unreasonable to have expected the Home Office to issue a refusal notice in response to the request above, hence the Commissioner's view is that the Home Office was entitled to rely on section 17(6) in order to not respond to the request.

Section 14

10. The Home Office cited section 14(1) of the FOIA, which provides that a public authority is not obliged to comply with a request that is vexatious. As covered in the Commissioner's published guidance¹ on this provision, 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.
11. The task for the Commissioner here is to decide whether the complainant's request was vexatious according to that definition. In forming a conclusion on the citing of section 14(1), the Commissioner has taken into account the representations of the Home Office, as well as the evidence that is available to him.
12. Where it is relevant to do so, a public authority may take into account the context and history preceding the request. This means that a request may be vexatious when made by one person and not vexatious when made by another person.
13. In this case the Home Office has relied on the history of its dealings with the complainant when justifying its refusal of this request. The reasoning of the Home Office and the Commissioner's analysis of this is as follows.
14. The reasoning of the Home Office was that, in the context of the complainant's other information requests and wider correspondence with the Home Office, compliance with this request would impose a disproportionate burden. The Home Office supplied evidence to the Commissioner of the volume of the requests that it had received from the complainant, stating that the complainant had made around 100 requests to it between 29 January 2013 and the date of the request above. The Home Office also stated that it had received a large volume of other correspondence from the complainant during that period, including many requests for internal reviews.
15. The Home Office also referred to the conduct of the complainant. It referred to occasions in which the complainant had used inappropriate language or tone in his correspondence and to his tendency to post online comments about named members of Home Office staff. It stated

¹ <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

that it had been necessary to take unusual measures to moderate the complainant's behaviour in his dealings with it.

16. The Home Office also argued that the specific request in this case amounts to harassment to the staff member named in the request. It believed this was the case as the named staff member is at a junior level and also due to the history of the complainant's dealings with the Home Office, including previous harassment of its staff.
17. Turning to the reasoning of the Commissioner, the Commissioner's guidance on section 14(1) refers to the following wording from the Upper Tribunal case *Wise v The Information Commissioner* (GIA/1871/2011):

"Inherent in the policy behind section 14(1) is the idea of proportionality. There must be an appropriate relationship between such matters as the information sought, the purpose of the request, and the time and other resources that would be needed to provide it."
18. The Commissioner agrees with the reasoning from the Home Office that this request, given the context of the wider dealings between it and the complainant, would impose a significant burden on the Home Office. In particular, the evidence of the complainant's previous dealings with the Home Office suggests that, far from resolving the complainant's concerns, disclosure would be highly likely to result in the complainant sending further communications to the Home Office, including more information requests. Having accepted that this request would impose a burden, in line with the approach taken by the Upper Tribunal, the question is whether that burden would be proportionate to the value of the request.
19. First, the Commissioner agrees with the Home Office that the information the complainant is seeking is of no wider public interest. Instead, the view of the Commissioner is that the complainant is seeking to pursue a personal matter. This means that the Commissioner is not of the view that it would be proportionate for the Home Office to expend its resources on this request due to any weighty public interest in disclosure of the requested information.
20. The Commissioner notes that the complainant has made references in his correspondence with the ICO to requiring the requested information for court proceedings. However, a separate route of access exists for information required in relation to court proceedings so it was not necessary for the complainant to seek information genuinely required for that purpose through the FOIA.

21. Secondly, the Commissioner agrees that the request in this case is harassing towards the staff member named in the request. The Commissioner is aware that the complainant has a long standing grievance with the Home Office. It is not necessary for the Commissioner to form a view on the rights and wrongs of that grievance, but he is of the view that the complainant must view the Home Office as a corporate entity and appreciate that individual staff within that entity, particular those at junior levels, should not be targeted. The Commissioner does not believe that seeking to have disclosed into the public domain information about the work of a single Home Office official was justified in this case.
22. Thirdly, the Commissioner notes the evidence provided by the Home Office that the complainant has not always conducted his correspondence with it in a courteous manner and that some of his other dealings with the Home Office has amounted to, similarly to the information request above, harassment of Home Office staff. That the complainant has not always conducted his business with the Home Office in an appropriate fashion added to the burden that the request above imposed.
23. In conclusion, the Commissioner has found that the request above would be burdensome to the Home Office, both in itself following the complainant's previous requests and wider correspondence with the Home Office, and due to the likelihood that compliance with this request would lead to further correspondence from the complainant. Having formed that view, the Commissioner considered whether that burden may be proportionate to the value of the request, but, for the reasons given above, he believes that this request is of little value and so its burden would be disproportionate.
24. The finding of the Commissioner is, therefore, that the request was vexatious and so section 14(1) of the FOIA provided that the Home Office was not obliged to comply with it.

Other matters

25. The approach of the Commissioner is that an internal review should be completed within a maximum of 40 working days. In this case, the Home Office took more than five months to complete the review. Whilst the Commissioner's view as set out above is that the request in this case was vexatious, having committed to carrying out a review the Home Office should have completed it promptly. It must ensure that it has appropriate processes in place to carry out internal reviews promptly.

Right of appeal

26. 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: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

27. 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.
28. 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
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