



## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date 8 August 2006

**Public Authority:** London Metropolitan University  
**Address:** 31 Jewry Street  
London  
EC3N 2EY

### Summary

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The complainant requested information relating to a degree course he had commenced at the London Metropolitan University in September 1988. The response initially given to the complainant did not meet the requirements of the Freedom of Information Act 2000 (the Act). Following the Commissioner's intervention, the public authority provided a refusal notice in line with section 17 of the Act and stated that the complainant's requests were, for the most part, vexatious, as all of the information requested had been provided to the complainant previously. The Commissioner agrees that these requests were vexatious. The public authority has conceded that its initial response fell outside the statutory response time and failed to meet the requirements of section 17.

### The Commissioner's Role

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1. The Commissioner's role is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Act. This Notice sets out his decision.

### The Request

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2. On 9 February 2005 the complainant requested information relating to a longstanding dispute with the London Metropolitan University (the University), in accordance with section 1 of the Act:

"I hereby ask for information in writing in respect of the following in accordance with the Freedom of Information Act 2000":

- i. "When did you process my appeal of 5 August 1992?"



- ii. "When did you hold the meeting of the Modular Degree Scheme Board of Examiners in my case?"
- iii. "If there was such a meeting, why didn't you invite me to attend?"
- iv. "Can you furnish documentary evidence to the effect that you followed all the relevant rules and regulations?"
- v. "Why did you insert the code '4/90 DE 104 EX' and can you clarify it in the right way?"
- vi. "Can you clarify the following MDDS regulations: 2.6; 2.13; 2.14(3); 2.22; 4.1(a) and (b); 4.3; 4.4; 8.3 and 10.1?"
- vii. "What is the standard format of a transcript?"
- viii. "Why did you exclude the following three subjects from the record:
  - (a) Property 2
  - (b) Law of Landlord and Tenant
  - (c) Marketing?"
- ix. "What action did you take against your racist staff including [name redacted]?"
- x. "On two occasions i.e. 1993/4 and 1996/7 academic years, I secured a place on Bar Vocational Course and lost the place on the course as you failed to send the transcript to the Bar Council. In your letter to the Bar Council of 5<sup>th</sup> August 1993 you stated that decision on my result would not be taken until 29<sup>th</sup> September 1993. Why did you state like that in your letter to the Bar Council?"

On 4 April 2005 the University responded to the complainant, stating:

"Your case has been extensively reviewed since 1991. No basis has been found to your claims. The correspondence is therefore closed."

## The Investigation

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### Scope of the case

3. On 25 April 2005 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the following point:

"I request your good office to investigate my complaint to redress my prolonged grievances."

This involved assessing whether the public authority had complied with the provisions of sections 10, 14 and 17 of the Act, which are set out in the Legal Annex to this Decision Notice.



## Chronology

4. The Commissioner wrote to the complainant on 23 July 2005, seeking clarification of his complaint. The complainant responded on 4 August 2005 and enclosed copies of the correspondence with the University. Examination of this correspondence led the Commissioner to understand that the complainant had requested information under the Act.
5. The Commissioner wrote to the University on 5 January 2006 and asked for the complainant to be given a full and proper response under the Act by 15 February 2006. The University had failed to respond and so was sent a reminder letter on 21 February 2006.
6. On 9 March 2006 the University responded by email to the Commissioner but not to the complainant. The University explained the background to the complainant's case and stated that the complainant's requests had been considered vexatious. Upon receipt of this email the Commissioner then telephoned the University to remind it that the complainant remained entitled to a written response in line with the Act. The Commissioner confirmed details of the conversation by letter of the same day.
7. On 29 March 2006 the Commissioner reminded the University that the complainant had not yet been provided with a response to his requests. The University responded to the complainant's requests on 6 April 2006, stating that requests i and ii were subject access requests under the Data Protection Act 1998 and that requests iii to viii and x were vexatious and repeated within the meaning of the Freedom of Information Act 2000. Request ix was deemed not to constitute a valid request for information by the University.
8. On 8 April 2006 the complainant confirmed to the Commissioner that he was dissatisfied with the University's response and therefore wished to pursue his complaint.
9. The Commissioner wrote to the University on 24 April 2006 and asked for evidence to be provided which supported the use of the vexatious and repeated provisions. The University was referred to the Commissioner's Awareness Guidance on the use of section 14 of the Act. The Commissioner disputed that request ix did not constitute a valid request and asked for the complainant to be provided with a response to this request under the Act. The University sent various documents to the Commissioner on 8 May 2006 in reliance upon the use of section 14(1) and section 14(2) however again disputed that request ix was valid under the Act.
10. On 16 May 2006 the Commissioner wrote to the University with the conclusions to his investigation. The Commissioner explained that section 14(2) (repeated requests) could not be relied upon as the complainant's requests of 9 February 2005 were the first he had made for this information since the Act had come into



force. The University accepted this interpretation in a telephone conversation with the Commissioner on 17 May 2006 and therefore the use of this provision is not examined in this Decision Notice. The University agreed to respond to request ix, and did so on 22 May 2006. The complainant was offered the opportunity to have the handling of this request reviewed internally by the public authority and therefore it will form the subject of a separate complaint should the complainant wish the Commissioner to consider this matter.

11. The Commissioner wrote to the complainant on 22 May 2006 with the conclusions to his investigation, and invited the complainant to withdraw his complaint.
12. The complainant telephoned the Commissioner on 15 June 2006 to confirm that he would not withdraw his complaint. The Commissioner afforded the complainant a final opportunity to submit evidence in support of his complaint.
13. On 29 June 2006 the complainant wrote to the Commissioner, enclosing various pieces of correspondence between him and the University.

### **Findings of fact**

14. The University accepts that it did not comply with certain procedural requirements of the Act. The University failed to respond within twenty working days as required by section 10. When the University did respond it failed to provide an adequate refusal notice as required by section 17.

### **Analysis**

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15. The Commissioner has considered whether the public authority was correct in determining the complainant's requests for information to be vexatious under section 14 of the Act.

Section 14(1) – "Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious."

16. The Commissioner's general advice regarding vexatious requests is set out in Awareness Guidance 22. This explains that the Commissioner accepts a request may fairly be judged to be vexatious if it:
  - clearly does not have any serious purpose or value;
  - is designed to cause disruption or annoyance;
  - has the effect of harassing the public authority; or
  - can otherwise fairly be characterised as obsessive or manifestly unreasonable.



17. The Guidance explains that the test of whether section 14(1) applies is whether that particular request can be judged to be vexatious and not whether the requester can be so judged. It provides some advice as to when the vexatious provision may be utilised, for example:

**“The request clearly does not have any serious purpose or value.** Although the Act does not require the person making a request to disclose any reason or motivation, there may be cases which are so lacking in serious purpose or value that they can only be fairly treated as “vexatious”. Such cases are especially likely to arise where there has been a series of requests. Before reaching such a conclusion, however, a public authority should be careful to consider any explanation which the applicant gives as to the value in disclosing the information which may be made in the course of an appeal against refusal.”

**“The applicant makes clear his or her intention:** If an applicant explicitly states that it is his or her intention to cause a public authority the maximum inconvenience through a request, it will almost certainly make that request vexatious.”

**“The authority has independent knowledge of the intention of the applicant:** Similarly, if an applicant (or an organisation to which the applicant belongs, such as a campaign group) has previously indicated an intention to cause a public authority the maximum inconvenience through making requests, it will usually be possible to regard that request as being vexatious.”

**“The request can fairly be characterised as obsessive or manifestly unreasonable.** It will usually be easier to recognise such cases than define them. They will be exceptional – public authorities must not be judgmental without good cause. An apparently tedious request, which in fact relates to a genuine concern, must not be dismissed. But a public authority is not obliged to comply with a request which a reasonable person would describe as obsessive or manifestly unreasonable. It will obviously be easier to identify such requests when there has been frequent prior contact with requester or the request otherwise forms part of a pattern, for instance when the same individual submits successive requests for information. Although such requests may not be “repeated” in the sense that they are requests for the same information, taken together they may form evidence of a pattern of obsessive requests so that an authority may reasonably regard the most recent as vexatious.”

18. The public authority believed the complainant's requests to be vexatious on the grounds that:

- “The applicant has made clear his intention to cause inconvenience”;
- “The University has independent knowledge of the applicant...the applicant has been campaigning on this matter for thirteen years”;



- “The request does not have any serious purpose or value. All the issues raised have been the subject of review, determination and legal action”;
  - and
  - “The request can fairly be characterised as obsessive or manifestly unreasonable. The applicant has been engaged in an unsuccessful campaign for thirteen years on this matter. His complaints have all been determined by appropriate bodies including the Courts”.
19. The Commissioner does not accept that the applicant intended to cause the University inconvenience by making his requests for information as the University has not provided any documentary evidence to support this.
20. A public authority’s independent knowledge of the applicant may only be taken into account where an applicant has made it clear his intention to cause inconvenience. This is not applicable in this case.
21. The Commissioner accepts that the requests do not have any serious purpose or value, as the complainant has previously been provided with all of the information he has requested. The purpose the complainant’s requests appear to have been to reopen an investigation that had already been completed by the University and been the subject of legal action. The Commissioner does not accept that any further information could be provided under the Act than had already been released as part of the legal process.
22. The Commissioner accepts that the requests can be characterised as obsessive and manifestly unreasonable and believes that all reasonable persons would agree with this conclusion. The Commissioner has been provided with a number of pieces of correspondence demonstrating the repeated nature of the complainant’s requests and the attempts taken by the University to address his concerns.

## **The Decision**

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23. The Commissioner’s decision is that the public authority did apply section 14(1) of the Act correctly in relation to the complainant’s requests for information. However the public authority failed to respond within twenty working days as required by section 10 of the Act and failed to issue a refusal notice in line with section 17 of the Act.

## **Steps Required**

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24. The Commissioner requires no steps to be taken.



## Right of Appeal

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25. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal  
Arnhem House Support Centre  
PO Box 6987  
Leicester  
LE1 6ZX

Tel: 0845 600 0877  
Fax: 0116 249 4253  
Email: [informationtribunal@dca.gsi.gov.uk](mailto:informationtribunal@dca.gsi.gov.uk)

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

**Dated the 8th day of August 2006**

**Signed .....**

**Phil Boyd**  
**Assistant Commissioner**

**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**



## **Legal Annex**

- Section 10(1)** Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
- Section 14(1)** Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.
- Section 14(2)** Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.
- Section 17(5)** A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.
- Section 17(7)** A notice under subsection (1), (3) or (5) must –
- (a) contain particulars of any procedure provided by the public authority for dealing with complaints about the handling of requests for information or state that the authority does not provide such a procedure, and
  - (b) contain particulars of the right of section 50.