

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

**Date: 7 February 2011**

**Public Authority:** The University of Salford  
**Address:** 43 Crescent  
Salford  
M5 4WT

### Summary

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Between 3 November and 13 November 2009 the complainant submitted 13 requests for information to the University of Salford. The earliest two requests were initially refused under section 12 of the Freedom of Information Act, on the basis that the costs of compliance would exceed the appropriate limit, the later requests were all refused as vexatious, under section 14 of the Act. The public authority conducted an internal review, which upheld the previous decision to refuse the requests as vexatious, and is also understood to apply the refusal of section 14 to the first two requests. The Commissioner's decision is that the public authority correctly applied section 14 of the Act to the refused requests but, in failing to provide the complainant with a refusal notice which stated the fact that the first two requests were refused under section 14 of the Act, within the time for compliance with section 1 of the Act, the public authority breached section 17(5) of the Act.

### The Commissioner's Role

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1. The Commissioner's duty 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 Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

### Background

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2. Between the end of October 2009 and early February 2010 the university received slightly over 100 requests for information, submitted by 13 individuals, all but three of which were submitted via the

WhatDoTheyKnow.com website. This constituted a significant increase in the number and rate of receipt of requests, compared to the volume received prior to October 2009. The university explains that, for comparison, during the whole of 2008, it received 117 requests, submitted by 78 different requesters (none of whom had submitted more than 3 requests in the year) and that, during the rest of 2009, it had received a total of 78 requests. Prior to this sudden increase in requests, the university had not received any requests via WhatDoTheyKnow.com (WDTK), or any other FOI website, which led it to conclude that its receipt of so many requests, so quickly, via the same route could not be down to chance alone.

3. The requests originated from a comparatively small number of individuals who, the university believed, had connections to the complainant, a former staff member who had recently been dismissed by it. The public authority considered this to be a concerted attempt to disrupt its activities by a group of activists undertaking a campaign.

## The Request

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4. The complainant submitted a series of 13 requests for information to the University of Salford (the university) via the 'WhatDoTheyKnow.com' website (WDTK) between 3 November 2009 and 13 November 2009. The requests are listed at Annex 2 to this Decision Notice but the history of the requests and the public authority's responses is briefly summarised, below.
5. The complainant submitted two requests on 3 November 2009. These were refused on 10 November 2009, on the basis of section 12(1) of the Act, that the costs for compliance with the requests would exceed the statutory limit of £450. The complainant was advised that he could submit a refined request and the university made some suggestions of ways in which he could refine his request. He requested an internal review of the university's response on 14 December 2009. This was completed and the outcome communicated to the complainant on 7 April 2010. The internal review upheld the decision to refuse the requests, but amended the grounds for refusal to section 14(1) of the Act, that the requests were vexatious.
6. The complainant submitted five requests on 11 November 2009. (He has characterised these five requests as resubmitted versions of his earlier requests, refined to bring each request below the cost limit). These requests were refused on 11 December 2009, on the basis of section 14 of the Act, that the requests were vexatious. The complainant requested an internal review of the university's response on 14 December 2009.

The internal review of 7 April 2010 upheld the decision to refuse the requests as vexatious.

7. The complainant submitted six requests on 11 November 2009. These were refused on 11 December 2009, on the basis of section 14 of the Act, that the requests were vexatious. The complainant requested an internal review of the university's response on 14 December 2009. The internal review of 7 April 2010 upheld the decision to refuse the requests as vexatious. The Commissioner notes that there is no copy of the internal review notice on the WDTK website in respect of the last request, and the complainant sent a reminder to the university on 27 July to which there is no reply. The university has confirmed to the Commissioner that its 7 April 2010 internal review applied to all the requests refused as vexatious at this time.

## **The Investigation**

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### **Scope of the case**

8. On 29 March 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. Subsequently the complainant wrote again to the Commissioner on 28 April 2010. He specifically asked the Commissioner to consider the following points:
  - His 11 November requests had been refused as vexatious when they had been submitted following the advice of the university when it refused his earlier requests.
  - He had not received a response to his requests for an internal review.
9. The Commissioner observes that the complainant's second submission, received on the ICO's standard complaint form, contained identical wording to his original 29 March letter of complaint, which had been submitted prior to his receipt of the university's internal review. The Commissioner therefore notes that the complainant's comments in the later document, that he had not received a response to his request for internal review, may have been the result of a failure to properly edit the later complaint document as, by that time, the university had provided its internal review to 12 of his 13 requests. The university has confirmed that its internal review applies to all the refused requests.
10. The focus of the Commissioner's investigation has therefore been the application of section 14 of the Act to the complainant's requests, and the refusal of his 13 requests as vexatious by the university.

11. The complainant also raised other issues that are not addressed in this notice because they are not requirements of Part 1 of the Act.

## Chronology

12. The Commissioner has received a number of complaints, from various parties who had requests similarly refused as vexatious by the university at around the same time. He corresponded with the university between May and November 2010 in relation to all the complaints. The university's responses apply to the entire series of requests refused under section 14 of the Act during the period referred to in paragraph 2, and are not listed in detail in this notice.
13. The Commissioner wrote to the complainant on 31 August 2010. He indicated that, in association with a number of related complaints, he intended to investigate the university's application of section 14 of the Act to the complainant's requests. He referred the complainant to the guidance on the ICO website about the use of section 14 of the Act<sup>1</sup> and drew his attention to the five tests commonly applied when implementing that guidance. Those tests are considered in more detail in the analysis section later in this notice.
14. The Commissioner also drew the complainant's attention to the ICO guidance on the use of section 12 of the Act<sup>2</sup>, with particular reference to the section related to the aggregation of costs. He commented that this might help the complainant to understand how a public authority, which has refused two multi-part requests on grounds of costs, might react when faced with several more requests for, essentially, the same information differently presented. The Commissioner explained that the university was arguing that his, and other, requests were part of a campaign against the university, and he invited the complainant's comments in response, having regard for the tests contained in the Commissioner's guidance relating to vexatious requests.
15. The complainant responded on 6 September 2010. He argued that his requests had a serious purpose (connected to a forthcoming Employment Tribunal) and could not be considered as harassing the university or causing distress to staff, as none were mentioned by name. He refutes any suggestion that his requests are obsessive, arguing that

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<sup>1</sup> Available online at

[http://www.ico.gov.uk/~media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/VEXATIOUS\\_AND\\_REPEATED\\_REQUESTS.ashx](http://www.ico.gov.uk/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/VEXATIOUS_AND_REPEATED_REQUESTS.ashx)

<sup>2</sup> Available online at

[http://www.ico.gov.uk/~media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/FEES\\_REGULATIONS\\_GUIDANCE\\_V2.ashx](http://www.ico.gov.uk/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/FEES_REGULATIONS_GUIDANCE_V2.ashx)

his serious purpose justified the requests and the university was refusing them as vexatious in an attempt to avoid providing the information for his purposes in pursuit of his case at the Employment Tribunal. He alleged that members of the university's Freedom of Information (FOI) staff were seriously deficient in relation to his pursuit of information, and the university's dealings with him in relation to requests under the Act and the Data Protection Act (the DPA) implied intervention at a senior level within the university, on political grounds.

16. The Commissioner wrote again to the complainant on 29 September 2010, requesting clarification of his allegations about the conduct of the university's FOI staff. The complainant responded on 10 September 2010, enclosing copies of correspondence associated with a request for the complainant's personal data under the DPA. The Commissioner replied on 1 October, advising the complainant that, as the allegations related to a request made under the DPA, they would not be considered as part of his investigation into the university's refusal of his FOI requests, but the complainant was entitled to bring a complaint to the ICO about those specific matters if he wished to do so.
17. The complainant wrote to the Commissioner on 16 November 2010. He enclosed copies of internal emails, and a link to a recent response by the university to a request on the WDTK website which, he asserted, showed that the university's Registrar/Deputy Vice Chancellor, and the Vice Chancellor were exercising undue influence over the FOI process. He commented:

*"I am fully aware that as Head of Information Governance [name] is, with other working alongside him in similar roles, responsible for the processing and if necessary, for the refusal of initial FOI requests. [name] is also responsible for conducting internal reviews in a timely fashion according to the FOI Act legislation.*

*[...]*

*[Deputy Vice Chancellor] should play no role in the refusal of legitimate FOI requests, and I see his involvement as a very serious indeed. It may also serve to explain why all my requests have so far been refused."*

## **Findings of fact**

18. The complainant is known to be the author of a series of newsletters, critical of the university, titled 'The Vice Consul's Newsletters' which were circulated around the university in the first half of 2009. He has acknowledged his authorship of these newsletters, which he describes as 'satirical'. His role in producing and circulating these newsletters was partially responsible for his dismissal from his post as a part-time

lecturer at the university. He has taken the matter to an Employment Tribunal and, at the time of writing, the tribunal hearing is expected to take place in early 2011. The complainant has made the matter public and discussed his dismissal and his forthcoming employment tribunal, together with other topics including various matters connected to the university, in an online blog<sup>3</sup>.

## Analysis

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### Substantive Procedural Matters

19. The Information Tribunal in the case of *McIntyre v IC & Ministry of Defence* (EA/2007/0068)<sup>4</sup> states, at paragraph 38:

*"[...] the Act encourages or rather requires that an internal review must be requested before the Commissioner investigates a complaint under s.50. Parliament clearly intended that a public authority should have the opportunity to review its refusal notice and if it got it wrong to be able to correct that decision before a complaint is made."*

Therefore this Decision Notice will examine the university's application of section 14(1) of the Act, not any initial application of section 12(1) of the Act.

### Section 14

20. The Commissioner will consider the context and history of the requests as well as the strengths and weaknesses of both parties' arguments in relation to some or all of the following five factors to reach a reasoned conclusion as to whether a reasonable public authority could refuse to comply with the requests on the grounds that they are vexatious:

- whether compliance would create a significant burden in terms of expense **and** distraction
- whether the request is designed to cause disruption or annoyance
- whether the request has the effect of harassing the public authority or its staff

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<sup>3</sup> See <http://vagrantsinthecasualwardofaworkhouse.blogspot.com/>

<sup>4</sup> Available online at <http://www.informationtribunal.gov.uk/DBFiles/Decision/i99/McIntyre.pdf>

- whether the request can otherwise fairly be characterised as obsessive or manifestly unreasonable
- whether the request has any serious purpose or value

### **Context and history**

21. This complaint is unusual in that the public authority has elected to refuse the requests not in isolation, but in the wider context of a substantial number of freedom of information (FOI) requests received during the material time and which it believes are to some degree associated with each other.
22. The associations derive not only from the timing, in which a small number of individuals have submitted a volume of requests roughly equivalent to a year's-worth of requests, during a period of about three months (approximately two-thirds of which were submitted within a seven week period from November to mid-December), but also due to some significant similarities in the information requested.
23. The Commissioner accepts that a public authority which was subject to a surge in the number and rate of FOI requests it received, many of which were complex and multifaceted, would find dealing with that surge a burden, both in terms of cost and staff resources in processing and responding to the requests. He acknowledges that a public authority is unlikely to have allocated staffing resources to FOI compliance, beyond those which are necessary to deal with its normal level of business. However, it does not follow that requests which form part of a significant surge or increase can then be classed as vexatious. But the Commissioner agrees that such a surge will be likely to constitute a burden and consequently distract the public authority from other activities and functions. Whether any of the requests that make up the surge can be classed as vexatious may depend, for example, on whether there are any further factors which point to any deliberate intent to cause such an effect and the patterns of requests made by individual requesters.
24. The Commissioner observes that his consideration of the context and history of a request acknowledges that the request itself is not the only element to be taken into account. It may only be when the wider context is considered that a public authority forms the view that a request is vexatious. In some cases, this may be because the applicant has a history of dealings with the public authority which will inform its view of the character of the request.
25. The complainant is understood to have been an active and principal participant in a group which became known as SUDE (Salford University Defend Education) which began campaigning against cuts to courses and

resources, including staff redundancies, which arose from a university study into costs known as 'Project Headroom'. The campaign began in late 2008 and the Commissioner has been provided with copies of campaign posters for February, March and April 2009 and other related documents from late 2008. The university has also provided the Commissioner with a press clipping for May 2009 in which the complainant acknowledges his participation in the campaign. One poster in particular makes suggestions of improper behaviour on the part of identifiable parties, repeated within the 'Vice Consul's Newsletters' where the parties are named. The Commissioner has been provided with copies of the 'Vice Consul's Newsletters' for March and April 2009. It is clear from these documents that the complainant's relationship with the university could fairly be characterised as antagonistic or provocative.

26. The entire series of requests (ie not just the complainant's requests) are argued by the university to exhibit characteristics which connect them to the complainant, who had been suspended from his post-graduate staff position in May 2009 on disciplinary grounds associated with the allegations made in the newsletters. He was subsequently dismissed in August 2009, a decision which was upheld at appeal in September 2009. The university believes that the timing and content of the requests, which began in November 2009, strongly suggests that the requesters have been acting in pursuit of a continuing campaign (connected to the complainant), in order to disrupt the workings of the university.
27. The Commissioner recognises that there is nothing in the Act which prevents the aggregation of requests from disparate sources for the purposes of section 14 of the Act, and he is mindful that section 12 of the Act makes specific provision for just such a process for the consideration of costs, where two or more requests have been made by different persons who appear to the public authority to be acting in concert, or in pursuance of a campaign. The university has argued that a similar provision ought to apply in the circumstances of these requests, as to do otherwise would permit individuals to circumvent legitimate refusals of vexatious requests by submitting them, or appearing to submit them, via another person. The Commissioner has also noted the approach taken in a number of cases related to Forestry Commission Scotland.<sup>5</sup> In these cases he accepted that a number of applicants were acting together, in pursuance of a campaign and this was a relevant consideration as to whether the requests were vexatious.
28. In the case of a refusal under section 12 (costs) as a result of the aggregation of multiple requests, it is for the public authority to show

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<sup>5</sup> FS50176016, FS50176942, FS50187763, FS50190235

that the refused requests are connected and the Commissioner will consider the matter on the merits of the case. Accordingly, for his investigation of the application of section 14 to the requests, he has sought the public authority's arguments for its belief that the requests under consideration have been submitted by persons who are acting in concert, or in pursuance of a campaign.

29. The university has not been able to demonstrate indisputable links between all the parties whose requests have been refused. It has, however, demonstrated to the Commissioner's satisfaction that a significant number of the requests are related to topics raised by the complainant, either overtly or via anonymous documents, including 'The Vice Consul's Newsletters'. The complainant's blog website, 'Vagrants in the Casual Ward of a Workhouse' continues to campaign about related matters, contains criticism of the university (including discussion of the circumstances of his dismissal and forthcoming Employment Tribunal and other hearings), and makes reference to the FOI requests submitted to the university via the WDTK website, including some comment on the university's responses.
30. A different anonymous blog, 'The ratcatchers of the sewers' (the 'Ratcatchers' blog) adopts a similar tone and is also substantially directed against the University of Salford, making similar arguments and accusations. The 'Ratcatchers' blog is currently only available to view by invitation and is password-protected. The Commissioner has therefore been unable to view any postings more recent than the cached examples the university has provided, which date from December 2009 to February 2010 and are therefore directly material to the time period of the refused requests.
31. The university contends that there is a connection to the complainant and has drawn the Commissioner's attention to stylistic similarities in the tone and content of the 'Ratcatchers' blog and other documents authored by the complainant. It is engaged in action to formally establish a connection, but it has not been conclusively linked to him in the university's submissions to the Commissioner. The 'Ratcatchers' blog also confirms that several of the FOI requests were submitted by its contributors and encourages its readers to continue the practice.

**Would compliance create a significant burden in terms of expense and distraction?**

32. The Commissioner is mindful that the requests were refused collectively, and he is in no doubt that the receipt of a year's-worth of requests compressed into three months, many of the requests being lengthy and complex, would create a significant burden in terms of expense and distraction for any public authority. Readers are directed to the

Commissioner's Decision Notices in case references FS50297312, FS50288812 and FS50306518 which also relate to complaints about the same public authority from other parties who submitted requests which have been similarly refused.

33. The Commissioner also notes that the first two requests submitted by the complainant were refused on the grounds of the costs for compliance, under section 12 of the Act. While the Commissioner has not investigated the university's estimate of its costs as this was not the ultimate grounds for refusal, he acknowledges the comparatively complex nature of the requests would give the university grounds to consider whether compliance with the requests would create a burden in terms of cost.
34. The university argues that the complainant's campaigning, and also to some extent his dismissal, is instrumental in the surge in FOI requests submitted to it via the WDTK website. Its corresponding argument is that the requests from any given individual should not only be considered in isolation.
35. In the particular circumstances of the complainant's case, his initial requests (3 November 2009) are the first to have been submitted via WDTK and those requests (on the subjects of management retreats and about the university's activities in China) are therefore the first to be submitted on those matters, although those topics were also the subject of subsequent requests by other parties.
36. The university has not provided any conclusive evidence which would suggest that the complainant incited the requests made by the other parties using the WDTK site, however the complainant has commented on the progress and outcome of requests by himself and others, in his online blog. In one case, the outcome of requests is discussed on his blog within 1 day of the response being given by the university.<sup>6</sup> It is apparent from his blog comment *"This little snippet has been forwarded today by a former colleague"* that he has connections to at least one other party who made requests via WDTK at the material time. One of the parties has, separately, confirmed a connection to the complainant, and is known to have assisted him during his dismissal proceedings at the university.

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<sup>6</sup> See, for example

[http://www.whatdotheyknow.com/request/legal\\_costs\\_incurred\\_in\\_connecti\\_2#comment-14379](http://www.whatdotheyknow.com/request/legal_costs_incurred_in_connecti_2#comment-14379) and the entry for 13 October on <http://vagrantsinthecasualwardofaworkhouse.blogspot.com/search?updated-max=2010-10-19T11%3A25%3A00%2B01%3A00&max-results=50>

37. The 'Ratcatchers' blog did announce that a series of requests was submitted by one of its contributors (see paragraph 41, below), and encouraged its readers to make further FOI requests to the university via WDTK. Noting that the complainant has not been conclusively linked to the 'Ratcatchers' blog, it is nevertheless apparent to the Commissioner, from the common themes which recur in the various parties' requests, that the majority of the requests are related, either to request topics originated by the complainant; to subjects raised in his 'Vice Consul's Newsletters'; or to requests made (or possibly incited) by the contributors to the 'Ratcatchers' blog.
38. The Commissioner therefore finds that there is sufficient evidence to suggest a significant link between the complainant's requests and those of the other parties who made requests via WDTK at the material time. The Commissioner is satisfied that the complainant's requests ought to be considered as part of the overall burden caused by the surge in requests originating from WDTK because of the clear inter-relationship between the subjects authored by the complainant, his own requests, and those of the other parties.
39. He is also satisfied that the surge in requests should be more directly associated with the complainant, partly because of his campaigning about university cuts and his 'Vice Consul's Newsletters', but also partly due to his dismissal and the publicity and campaigning associated with that. The Commissioner accepts that the complainant has taken part in, and should bear at least some responsibility for, the substantial mass of requests submitted via WDTK which, collectively, comprise the surge in requests at the heart of this matter. These links do not need to be proved conclusively but the Commissioner must be satisfied on the balance of probabilities. He finds that this test is met.
40. He therefore considers that the unusual wider circumstances surrounding this case permit him to give weight to the argument that compliance with the complainant's requests ought to be considered in conjunction with the other WDTK requests, and would therefore create a significant burden in terms of expense and distraction.

### **Are the requests designed to cause disruption or annoyance?**

41. The Commissioner recognises that a series of 20 requests, submitted by a 'Roger Norvegicus'<sup>7</sup> on 30 November 2009 were submitted under the same name which has also been used by a contributor to the 'Ratcatchers' blog. These were refused by the university as invalid under section 8(1)(b) of the Act which requires a request to state the name of

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<sup>7</sup> See [http://www.whatdotheyknow.com/user/roger\\_norvegicus](http://www.whatdotheyknow.com/user/roger_norvegicus)

the applicant; the university maintains that 'Roger Norvegicus' is a pseudonym, noting that 'Rattus Norvegicus' is the scientific name for the Brown Rat, also known as the Sewer Rat. This refusal has not been challenged by the applicant. Verbatim copies of that series of requests were subsequently submitted on 1 February 2010<sup>8</sup>.

42. The same information was also requested by other parties argued by the university to be involved, in the intervening period<sup>9</sup>. The Commissioner found, in his decision Notices in case references FS50297312 and FS50312234 that these requests were correctly refused as vexatious by the university.
43. The Commissioner therefore recognises that, when faced with a series of requests for, essentially, the same material previously refused (ie the complainant's 11 and 13 November 2009 requests) the university might have formed the view that these conformed to a similar pattern to that which was, by the time of their refusal, beginning to emerge.
44. Nevertheless, the Commissioner is aware that the complainant had justifiable reasons for submitting his requests in the first place. He is satisfied, from the complainant's explanation of his actions, that his resubmission of the same requests as a series of requests broken into smaller parts, was not intended to disrupt but appears more likely to be the result of a genuine misunderstanding of the purpose of section 12 of the Act and, in particular, an ignorance of the function of section 12(4) which permits the aggregation of related requests for the estimation of costs. He therefore accepts that the complainant may not have designed his own requests to cause disruption or annoyance.
45. However, as has been established above, the requests in these related cases cannot be considered entirely in isolation and there are other circumstances, below, which point to the possibility that the complainant intended to cause disruption or annoyance, albeit not directly by the submission of his own requests. For example, the Commissioner notes the use of pseudonyms which has come to light in this matter.

### **The use of pseudonyms**

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<sup>8</sup> See [http://www.whatdotheyknow.com/user/andy\\_lockhart](http://www.whatdotheyknow.com/user/andy_lockhart)

<sup>9</sup> See [http://www.whatdotheyknow.com/request/salaries\\_of\\_70000\\_and\\_above#incoming-78978](http://www.whatdotheyknow.com/request/salaries_of_70000_and_above#incoming-78978)

And [http://www.whatdotheyknow.com/request/salaries\\_of\\_more\\_than\\_70000\\_2#incoming-79045](http://www.whatdotheyknow.com/request/salaries_of_more_than_70000_2#incoming-79045)

46. The Commissioner also received a number of complaints from another person, a 'James Brown'<sup>10</sup> about a series of requests submitted by him, which had also been refused as vexatious. The university has expressed doubts about the identity of the applicant and indicated its suspicion that the requests had been submitted using a pseudonym.
47. Under section 8(1)(b) of the Act, a request is only a valid request for information under the Act if it states "*the name of the applicant*" and the Commissioner considers that this should be interpreted as the real name of the applicant. He has issued guidance on the use of pseudonyms<sup>11</sup> which, among other things, encourages a public authority to exercise discretion in dealing with requests submitted under a pseudonym. Nevertheless if a public authority forms the view that responding to a request, submitted under a pseudonym, would not be reasonable in the circumstances, it is entitled to refuse to deal with that request under the Act, on the grounds that it is not a valid request for information as defined in the Act.
48. In such circumstances, the Commissioner may require an applicant to provide suitable proof of identity because, if the request is not a valid one as defined by section 8 of the Act, he has no corresponding powers to hear a complaint under section 50 of the Act. In the case of 'James Brown' the Commissioner noted the university's grounds for believing the applicant to be using a pseudonym and also other matters, which gave reasonable grounds for doubt about the identity of that particular applicant. He accordingly requested suitable proof of identity from 'Mr Brown', which was not provided. The Commissioner is therefore satisfied that there are reasonable grounds for concluding that those requests submitted by 'James Brown' were submitted using a pseudonym.
49. The Commissioner observes that it is also reasonable to suspect that the requests submitted by 'Roger Norvegicus', above, were also submitted under a pseudonym. (Because the refusal has not been challenged, the Commissioner has been unable to conclusively prove or disprove any identity in that case). It is nevertheless clear that at least some of the surge in requests experienced by the university originated from a party intending to conceal their identity and, if those submitted by 'Roger Norvegicus' are included, these pseudonymous requests amount, by themselves, to a substantial part of the surge.

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<sup>10</sup> See [http://www.whatdotheyknow.com/user/james\\_brown\\_3](http://www.whatdotheyknow.com/user/james_brown_3)

<sup>11</sup> Available on the ICO website at [http://www.ico.gov.uk/upload/documents/library/freedom\\_of\\_information/detailed\\_specialist\\_guides/name\\_of\\_applicant\\_fop083\\_v1.pdf](http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/name_of_applicant_fop083_v1.pdf)

50. The university argues that the use of pseudonyms is indicative of a generally vexatious intent and is an attempt to conceal the identity of parties who, it suspects, are submitting multiple requests under different names in order to create maximum distress and disruption to the university.
51. Because it increases the number of requests submitted, while concealing the identity of the applicants, this not only increases any burden on the university, but the Commissioner observes that it also adds to the body of refused requests, escalating the apparent scale of the perceived 'problem' of Salford University's alleged evasiveness, which has become the subject of criticism on the WDTK website. There is an argument that it is reasonable to conclude that the pseudonyms conceal the identities of parties who wish to remain anonymous, perhaps because their requests might be more quickly identified as vexatious or otherwise refused, if the identity of the requester were known or the requests could be quickly related to a smaller number of individuals.
52. The Commissioner recognises that, while he is satisfied that the 'Brown' and 'Norvegicus' requests appear to have been submitted using pseudonyms, the university has offered no evidence to show that the complainant was directly responsible for any of these requests.
53. He therefore finds that the surge in requests is designed to cause disruption or annoyance, and it is more likely than not that the complainant is a significant causal factor in that surge. Therefore, making due allowance for his arguments about the requests taken in isolation, in paragraph 44, the Commissioner nevertheless finds that the complainant's requests, in precipitating that surge, may be considered to be designed to cause disruption or annoyance.

**Do the requests have the effect of harassing the public authority or its staff?**

54. The complainant's 'Vice Consul's Newsletters' of March and April 2009 contained implied accusations about a named staff member, relating to nepotism and improper conduct in connection with another named individual. The complainant has explained that his requests were intended to obtain information to substantiate allegations made in his newsletters and he does not accept that they are harassing the public authority or causing distress to staff directly or indirectly, because no staff members are named in his requests. The university, for its part, has explained that the named individuals, and others, were considerably distressed by the "*public allegations and insinuations*" made against them by the complainant and others during a "*sustained, malicious, public campaign alleging financial and procedural irregularity, profligacy and mismanagement [...]*" and the Commissioner notes a number of

requests which made direct reference to those named individuals, albeit not those submitted by the complainant.

55. The Commissioner observes that, while the complainant's requests do not make any direct reference to named individuals, they do relate directly to the department concerned and activities in the country of origin of one of those individuals. Subsequent requests by other parties do make direct reference to certain individuals within that department. To the extent that the requests relate to the allegations put forward by the complainant in his newsletters, the Commissioner acknowledges that the named individuals would be likely to have felt harassed by them and that, as the source of the allegations, the complainant bears some responsibility for any associated harassment.
56. The Commissioner finds some support in the Information Tribunal case of *Gowers v IC and LB of Camden* (EA/2007/0114)<sup>12</sup> which states:

*"[...] We make no findings as to whether the Appellant's various complaints and grievances against the Council were or were not well-founded, nor do we make any findings about whether the Appellant's research was or was not bona fide. These are matters outside the scope of this Tribunal's jurisdiction. What we do find, however, is that the Appellant often expressed his dissatisfaction with the CCU in a way that would likely have been seen by any reasonable recipient, as hostile, provocative and often personal (particularly in respect of the CCU's head), going beyond any reasonable pursuit of his grievances, and amounting to a determined and relentless campaign to obtain any information which he could then use to discredit them."* (para 53)

Also

*"[...] We find that taken in their context, the requests are likely to have been very upsetting to the CCU staff and that they, and particular [name], are likely to have felt deliberately targeted and victimised [...]"* (para 54)

And

*"It is of course important that the requests should be assessed individually, and that all requests from an applicant should not be dismissed as vexatious just because some are vexatious. We have considered whether any of the 10 requests ought to be viewed*

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<sup>12</sup> Available online at <http://www.informationtribunal.gov.uk/DBFiles/Decision/i80/Gowers.pdf>

*differently. However, in our view [...] there is little to distinguish between the various requests. To try to do so would be to ignore their overall character and history.” (para 55)*

57. The argument may be considered to apply in particular to the requests submitted via WDTK which make reference to named individuals, and may be thought to apply somewhat less to the complainant's requests, which do not. The Commissioner nevertheless gives some weight to the argument that his requests on the subject have the effect of harassing the public authority or its staff, on the grounds expressed in the tribunal case of *Gowers*, above, that any harassment or distress derives from the context and history of his dealings with the university, not explicitly from his requests in this case.

**Can the requests otherwise fairly be characterised as obsessive or manifestly unreasonable**

58. The complainant has explained that his later requests were refined and resubmitted versions of his original requests, made in order to bring each request under the statutory £450 cost limit. The Commissioner notes clear associations between the 3 November 2009 request for information relating to an official trip to China and the requests submitted on 11 November 2009. He notes similar associations between the 3 November request about management retreats and the 11 and 13 November 2009 requests on the same subject.
59. The complainant explains that he had broken down the requests into a series of smaller requests in the belief that this would enable a response to be given within the cost limit. The Commissioner observes that this would not be likely to succeed because of the provisions of section 12(4) of the Act, which permits a series of related requests to be aggregated for the purposes of estimating the costs for compliance:

**Section 12(4) provides that –**

“The secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority –

- (a) by one person, or
- (b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.”

60. The Commissioner has drawn this provision to the complainant's attention during the course of his investigation. The complainant's reply indicates that he believes the refusal of the requests as vexatious was motivated by the wish to deny him relevant evidence to support his contentions. He comments that, had the university refused his requests a second time on grounds of cost, he would have further refined his requests in order to comply with what the university '*deemed reasonable*'.
61. The Commissioner observes that an objective reading of the complainant's 11 and 13 November 2009 requests about 'management retreats' do not appear to refine the 3 November 2009 request but may appear in some respects to seek more information than the original, most notably in requiring information about years additional to those specified in the original request.
62. The Commissioner is therefore not persuaded that the complainant's 11 and 13 November 2009 requests relating to management retreats can reasonably be characterised as 'refined' requests. Having due regard for the complainant's evident misunderstanding of the application of the cost limit to individual requests, and also for the fact that an applicant is not expected to be familiar with the provisions of section 12(4) in respect of the aggregation of related requests, the Commissioner does not find it particularly surprising that a public authority, faced with a 'refined' request which is greater in scope than the original, might form the view that the resubmitted requests could be vexatious.
63. The Commissioner therefore considers that, given the adversarial relationship which existed between the university and the complainant at the time, and the submission of notably similar requests by other parties<sup>13</sup> in the period between the complainant's original, and his resubmitted requests, the public authority might fairly have characterised his re-submission of recently refused requests as obsessive or manifestly unreasonable, particularly given the apparent expansion of the scope of his requests relating to 'management retreats'.
64. The Commissioner has some sympathy for the complainant's arguments, that his resubmitted requests were designed to resolve the issue of the costs for compliance of his initial requests. That is qualified, however, by

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<sup>13</sup> See

[http://www.whatdotheyknow.com/request/international\\_travel\\_by\\_staff\\_fr#comment-11549](http://www.whatdotheyknow.com/request/international_travel_by_staff_fr#comment-11549)

and [http://www.whatdotheyknow.com/request/international\\_travel\\_by\\_director#incoming-79039](http://www.whatdotheyknow.com/request/international_travel_by_director#incoming-79039)

his observation that the resubmitted requests are also expanded in scope, but the Commissioner does not consider this sufficient, in itself, to support an argument that the complainant's own requests are obsessive or otherwise manifestly unreasonable.

65. Taken in the wider context of the surge in requests via WDTK, the Commissioner notes the complainant's vigorous campaigning against university cuts and his associated allegations of impropriety but, given the normal conditions of robust debate and political activism which exist at most universities, he does not consider this requires him to categorise the complainant's wider activities as obsessive. However it is clear that the complainant's behaviour was becoming increasingly obsessive. The Commissioner therefore accords this factor some limited weight. The complainant's activities are examined, above, and may be perceived as unreasonable, however those aspects are dealt with under the other tests which may be applied.

#### **Do the requests have any serious purpose or value?**

66. The Complainant has explained that his *"initial rationale"* in applying for the information was based on a need for evidence in order to back claims he had made against the university in his satirical newsletters [the 'Vice Consul's Newsletters']. He confirms that the requests were made *"simply to provide documentary evidence for my Employment Tribunal"*. This, in itself, may be considered reasonable grounds for making requests for information and, to the extent that the complainant holds a genuine belief in the allegations he has made, any requests made in support of such allegations might be acknowledged to have serious purpose or value, particularly if they link to wider public concerns.
67. The Commissioner also notes that the Tribunals Service has its own routes to disclosure of documents, which might suggest that the making of Freedom of Information requests in pursuit of (or defence of) a claim at an Employment Tribunal are unnecessary. The Commissioner has not examined in any detail whether the complainant would be entitled to the information he has requested via the tribunal's own disclosure routes because he acknowledges that any such routes would not disbar the complainant from making his requests under the Act in any event. While they might be argued to diminish the serious purpose of the requests, the Commissioner notes that the tribunal process is designed to facilitate access for legally untrained or unrepresented parties and, as such, no detailed knowledge of its procedures and rules is necessary. It would be unfair to make the existence of alternative route for disclosure a determinative factor, but it is relevant as it is indicative of another route the complainant could have used to pursue information related to his dispute with the University.

68. The Information Tribunal in the case of *Coggins v IC* (EA/2007/0130)<sup>14</sup> stated, at paragraph 20, that:

*"[...] the Tribunal could imagine circumstances in which a request might be said to create a significant burden and indeed have the effect of harassing the public authority and yet, given its serious and proper purpose ought not to be deemed as vexatious. For instance, one could imagine a requester seeking to uncover bias in a series of decisions by a public authority, covering many years and involving extensive detail, each of fairly minor importance in themselves but representing a major issue when taken together. This might indeed be experienced as harassing but given the issue behind the requests, a warranted course of action. "*

69. The Commissioner acknowledges that the allegations contained in the complainant's newsletters, if true, might reasonably be characterised as a sufficiently major issue which warranted a course of action intended to uncover it. The complainant alleges, in his correspondence with the Commissioner, that the university has refused his, and other, requests as vexatious precisely in order to avoid any disclosure which would support the allegations. If the Commissioner considered this a reasonable point of view, he might be persuaded that, notwithstanding the combined weight of evidence that the requests are vexatious, there exists a sufficiently serious purpose which would suggest the requests ought not to be deemed as vexatious.

70. The complainant has also argued, however, that:

*"It is unambiguous that both the Registrar/Deputy Vice Chancellor [name] and the Vice Chancellor [name] have been exercising influence over the initial refusal of this FOI request and over the process of any subsequent internal review to the legitimate request for information by [applicant]."*

*This follows the email from [Deputy Vice Chancellor] to [Head of Information Governance] dated 9<sup>th</sup> November 2009 supplied to me under a Data Protection request, that that clearly shows the [Deputy Vice Chancellor] wished all FOIs to be routed through his office by his is Chief of Staff [name]."* [The Commissioner has been provided with a copy of this email].

*"From the blanket refusals of my own FOI requests mostly deemed as 'vexatious' as well as those others refused in similar fashion, I*

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<sup>14</sup> Available online at <http://www.informationtribunal.gov.uk/DBFiles/Decision/i119/Coggins.pdf>

*am concerned that [Deputy Vice Chancellor] is colluding with the Vice Chancellor and [Head of Information Governance] to deny access to vital information that I view as necessary to progress my case at the forthcoming Employment Tribunal. I am equally concerned that [Deputy Vice Chancellor] may also be exercising pressure on Freedom of Information requests*

*[...]*

*I am fully aware that as Head of Information Governance, [name] is, with other working alongside him in similar roles, responsible for the processing and if necessary, for the refusal of initial FOI requests. [Head of Information Governance] is also responsible for conducting internal reviews in a timely fashion according to the FOI Act legislation.*

*[...]*

*[Deputy Vice Chancellor] should play no role in the refusal of legitimate FOI requests, and I see his involvement as a very serious indeed. It may also serve to explain why all my requests have so far been refused."*

71. The Commissioner observes that there is nothing in the Act which stipulates which individuals or roles may, or may not, undertake tasks connected to a public authority's responsibilities under the Act. Therefore, there is no basis in the Act for the complainant's allegation that the Deputy Vice Chancellor's involvement in these matters should be viewed as 'very serious indeed'. This suggests a degree of misunderstanding of the Act and its operation on the part of the complainant. The Commissioner recalls that he has previously shown a similar lack of knowledge of the function of section 12 of the Act. This is not a criticism of the complainant, who is not expected to have any knowledge of the workings of the Act, but rather it is an observation that any misunderstanding engendered in this way may have coloured the complainant's approach to this matter.
72. The role of the Head of Information Governance, or indeed any staff member tasked with the fulfilment of FOI requests will, in the Commissioner's experience, require him to liaise with a very considerable range of staff in order to ensure that requests for information are properly and completely complied with. The Commissioner would not be surprised to learn that in circumstances similar to those here, very senior officers within a public authority might wish to have oversight or input into any responses which were being made in that public authority's name.

73. The Commissioner therefore dismisses the complainant's arguments that the Deputy Vice Chancellor's involvement is in any way improper, or may be construed as sinister. He is therefore less certain that the complainant's earlier allegations of misconduct in other aspects of the university's operations should be taken at face value. Particularly as the complainant has explained that his requests were intended to substantiate the claims and allegations he had previously made. This suggests that his earlier claims were made without any substantial evidence to back them up. While following-up of rumour and gossip is in the best journalistic traditions, and might indeed lead in some cases to significant exposure of wrongdoing, the complainant has explained that he is not seeking the information in order to expose wrongdoing, but to defend himself in an Employment Tribunal and, possibly, at a libel trial.
74. Had the complainant made these requests prior to making his allegations in his newsletters, the Commissioner would be more likely to give his arguments significant weight. The fact that he made his allegations public without a body of supporting evidence to rely on diminishes his argument somewhat and, while there may be a wider public interest argument if wrongdoing were to be exposed, the Commissioner is not aware that the complainant's allegations are founded in anything more substantial than malicious rumour. The serious purpose expressed by the complainant in this case is therefore not a public interest one, but one of his own private interest.
75. The Commissioner accordingly gives the complainant's arguments that his requests have serious purpose and value, some weight, but does not feel able to give it sufficient weight to outweigh the combined weight of the university's arguments in the other factors considered above.

## Summary

76. The Commissioner accepts the university's arguments that the complainant's requests should not be considered in isolation, but in conjunction with the larger body of requests submitted via WDTK at the material time, November 2009 to February 2010.
77. He has applied the five tests which are listed at paragraph 20, and finds that the complainant's requests may fairly be considered, either in isolation or as part of the wider campaign, to create a significant burden on the university in terms of expense and distraction. He also finds that they similarly have the effect of harassing the university or its staff, and may be argued to be designed to cause disruption or annoyance. He finds that there is some evidence to support a finding that the requests can fairly be characterised as obsessive or otherwise manifestly unreasonable, but he accords this factor less weight.

78. The factors combine to give weight to the university's argument that the requests may be refused as vexatious. The fifth test is commonly considered to be the one which may (as expressed in the tribunal case of *Coggins*, above) be most likely to weigh against these combined factors in support of the complainant's view. The Commissioner has therefore examined the complainant's stated reasons for believing his requests have serious purpose or value and finds some merit in the arguments expressed, particularly in the complainant's wish to amass evidence to support his forthcoming Employment Tribunal case. For the reasons explained above, however, he does not give sufficient weight to the complainant's arguments to outweigh the combined weight of the university's countervailing points.
79. This may also be a case in which the Commissioners five tests may not sufficiently cover the particular circumstances, not least because it is the wider context, rather than the specific requests, which exert the most decisive influences on his decision. It is the Commissioner's view that section 14(1) of the Act may be thought of as providing a means by which a public authority may be released from its obligations to respond under the Act, in circumstances where a request may reasonably be described as an abuse of the FOI process. In this case, the Commissioner is satisfied that the university has provided sufficient evidence to support its belief that a campaign has been pursued against the university, and that the substantial body of requests are connected to that campaign.
80. The Commissioner acknowledges the comments of the Information Tribunal in *Welsh v IC* (EA/2007/0088)<sup>15</sup> which stated, at paragraph 21:

*"There may be some requests where vexatiousness is immediately apparent. In most cases, the vexatious nature of a request will only emerge after considering the request in its context and background. As part of that context, the identity of the requester and past dealings with the public authority can be taken into account. When considering section 14, the general principles of FOIA that the identity of the requester is irrelevant, and that FOIA is purpose blind, cannot apply. Identity and purpose can be very relevant in determining whether a request is vexatious. It follows that it is possible for a request to be valid if made by one person, but vexatious if made by another; valid if made to one person, vexatious if made to another."*

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<sup>15</sup> Available online at <http://www.informationtribunal.gov.uk/DBFiles/Decision/i125/Welsh.pdf>

81. As an active party in the original campaign against university cuts, and as the author of a number of 'satirical' newsletters (to use the complainant's description) which were highly critical of the university, the complainant has clearly been at the centre of various campaigns directed against the university. Given his inclination towards activism, the Commissioner considers that the possibility of a further campaign being pursued via WDTK, using a large number of FOI requests to cause disruption and difficulty for the university, is not inconsistent with the methods and tactics employed elsewhere in the complainant's campaigning. Noting that the complainant's requests, considered in isolation, appear straightforward and innocuous, the Commissioner finds the comments of the Information Tribunal in *Welsh*, above, helpful. He considers its comment "*It follows that it is possible for a request to be valid if made by one person, but vexatious if made by another; valid if made to one person, vexatious if made to another.*" to be particularly relevant in the circumstances of this complaint.
82. The Commissioner also finds some significance in the fact that the complainant is the originator of the first requests to have been submitted via WDTK. He notes the university's comment that, prior to receiving the complainant's first requests, it had not received any FOI requests via WDTK, or any other FOI website. It cannot therefore be coincidental that the complainant has used this facility and has immediately been followed by a number of others, some of whom are known associates. The use of FOI requests in this fashion, noting also the use of pseudonyms, may fairly be characterised as an abuse of the right of access to information provided at section 1 of the Act.
83. Accordingly, he finds that the university correctly applied section 14(1) of the Act in refusing the complainant's requests as vexatious.

## **Procedural Requirements**

### **Section 17(5) provides that –**

"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."

84. The first two requests submitted by the complainant, on 3 November 2009, were refused on 10 November 2009, on the grounds of the costs for compliance under section 12(1) of the Act, not as vexatious under section 14(1) of the Act. At internal review, on 7 April 2010, the decision to refuse the requests was upheld, but the reason for refusing these requests was amended to the grounds that the requests were vexatious. The complainant was therefore not given a notice stating the fact that

the university relied on a claim that section 14 of the Act applied, within 20 working days of making the requests.

## The Decision

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85. The Commissioner's decision is that the public authority dealt with the following elements of the request in accordance with the requirements of the Act:

- The university correctly applied section 14(1) of the Act to the complainant's requests.

86. However, the Commissioner has also decided that the following elements of the request were not dealt with in accordance with the Act:

- With reference to the complainant's first two requests, the public authority breached section 17(5) of the Act by its failure to give him a notice stating the fact that the university relied on a claim that section 14 of the Act applied, within the 20 working days required for compliance with section 1 of the Act.

## Steps Required

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87. The Commissioner requires no steps to be taken.

## Other matters

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88. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern:

89. The Commissioner notes that the complainant's first two requests were initially refused on the grounds that the costs for compliance with the requests would exceed the statutory limit of £450, under section 12(1) of the Act. The university has explained that its internal review was conducted taking into account the significant number of requests received in the interim, from a variety of individuals, via the 'WhatDoTheyKnow.com' (WDTK) website. Its conclusion, at the end of that review, was that all the requests should be refused as vexatious under section 14(1) of the Act. This leads to a mismatch between the initial (10 November 2009) refusal notice and the (7 April 2010) internal review which upheld the initial refusal, albeit on different grounds.

90. The university appears to have sent the same internal review letter to all the refused WDTK requests it reviewed, and to have consequently overlooked the fact that the complainant's first two requests had not been refused on the same grounds as the majority of the other requests from the WDTK website. (The Commissioner acknowledges that the complainant's last request appears not to have received a copy of this internal review notice, but accepts that it is considered to apply, nevertheless). The Commissioner observes that this might have given rise to a reasonable suspicion that any internal review into the complainant's requests was not a *"fair and thorough review of handling issues and of decisions taken pursuant to the Act"* as required by the Code of Practice<sup>16</sup> issued in pursuance of section 45 of the Act.
91. In the event the Commissioner is satisfied that, in the specific circumstances, the university undertook a thorough and appropriately-directed internal review which properly took into account matters which may not have been apparent at the time the requests were initially refused. As reflected in his decision above, he concurs with the outcome of that review. The Commissioner nevertheless wishes to remind public authorities to exercise appropriate caution when reviewing multiple requests, to ensure that any review (and associated response) is pertinent to both the requests and the circumstances of any refusal of (or previous response to) those requests.
92. The university's internal review took longer than the timescale set out in the Commissioner's guidance<sup>17</sup>, which expects an internal review to be conducted within 20 working days or, in exceptional circumstances within 40 working days. The university has explained that it was overwhelmed by the receipt of the requests and formed the view that its existing complaints procedure was unsuitable in the circumstances. It subsequently sought guidance from an external firm of solicitors with expertise in FOI matters, which undertook to produce a report on its behalf. It received that report on 17 March 2010 and the advice was accepted by the Deputy Vice Chancellor on 31 March 2010. The internal review was communicated to the complainant on 7 April 2010.
93. The Commissioner therefore notes that the internal review was not conducted to the timescale recommended in his guidance, but accepts that in the specific and unusual circumstances surrounding this

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<sup>16</sup> Available to download from <http://www.justice.gov.uk/guidance/foi-guidance-codes-practice.htm>

<sup>17</sup> See [http://www.ico.gov.uk/upload/documents/library/freedom\\_of\\_information/detailed\\_specialist\\_guides/time\\_limits\\_internal\\_reviews.pdf](http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/time_limits_internal_reviews.pdf)

complaint, the university had reasonable grounds for exceeding those timescales.

## Right of Appeal

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94. 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,  
Arnhem House,  
31, Waterloo Way,  
LEICESTER,  
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: [informationtribunal@tribunals.gsi.gov.uk](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://www.informationtribunal.gov.uk)

95. 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.

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

**Dated the 7<sup>th</sup> day of February 2011**

**Signed .....**

**Steve Wood**  
**Head of Policy Delivery**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**

## Legal Annex

### General Right of Access

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#### **Section 1(1) provides that -**

"Any person making a request for information to a public authority is entitled –

- (c) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
- (d) if that is the case, to have that information communicated to him."

#### **Section 1(2) provides that -**

"Subsection (1) has the effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14."

#### **Section 1(3) provides that –**

"Where a public authority –

- (a) reasonably requires further information in order to identify and locate the information requested, and
- (b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information."

#### **Section 1(4) provides that –**

"The information –

- (a) in respect of which the applicant is to be informed under subsection (1)(a), or
- (b) which is to be communicated under subsection (1)(b),

is the information in question held at the time when the request is received, except that account may be taken of any amendment or deletion made between that time and the time when the information is to be communicated under subsection (1)(b), being an amendment or deletion that would have been made regardless of the receipt of the request."

**Section 1(5) provides that –**

“A public authority is to be taken to have complied with subsection (1)(a) in relation to any information if it has communicated the information to the applicant in accordance with subsection (1)(b).”

**Section 1(6) provides that –**

“In this Act, the duty of a public authority to comply with subsection (1)(a) is referred to as “the duty to confirm or deny”.

## **Request for Information**

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**Section 8(1) provides that –**

“In this Act any reference to a “request for information” is a reference to such a request which –

(c) is in writing,

(d) states the name of the applicant and an address for correspondence, and

(e) describes the information requested.”

**Section 8(2) provides that –**

“For the purposes of subsection (1)(a), a request is to be treated as made in writing where the text of the request –

(f) is transmitted by electronic means,

(g) is received in legible form, and

(h) is capable of being used for subsequent reference.”

## **Time for Compliance**

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**Section 10(1) provides that –**

“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 10(2) provides that –**

“Where the authority has given a fees notice to the applicant and the fee paid is in accordance with section 9(2), the working days in the period beginning with the day on which the fees notice is given to the applicant and ending with the day on which the fee is received by the authority are to be disregarded in calculating for the purposes of subsection (1) the twentieth working day following the date of receipt.”

**Section 10(3) provides that –**

“If, and to the extent that –

(i) section 1(1)(a) would not apply if the condition in section 2(1)(b) were satisfied, or

(j) section 1(1)(b) would not apply if the condition in section 2(2)(b) were satisfied,

the public authority need not comply with section 1(1)(a) or (b) until such time as is reasonable in the circumstances; but this subsection does not affect the time by which any notice under section 17(1) must be given.”

**Section 10(4) provides that –**

“The Secretary of State may by regulations provide that subsections (1) and (2) are to have effect as if any reference to the twentieth working day following the date of receipt were a reference to such other day, not later than the sixtieth working day following the date of receipt, as may be specified in, or determined in accordance with the regulations.”

**Section 10(5) provides that –**

“Regulations under subsection (4) may –

(k) prescribe different days in relation to different cases, and

(l) confer a discretion on the Commissioner.”

**Section 10(6) provides that –**

“In this section –

“the date of receipt” means –

(m) the day on which the public authority receives the request for information, or

(n) if later, the day on which it receives the information referred to in section 1(3);

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.”

## **Exemption where cost of compliance exceeds appropriate limit**

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### **Section 12(1) provides that –**

“Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.”

### **Section 12(2) provides that –**

“Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.”

### **Section 12(3) provides that –**

“In subsections (1) and (2) “the appropriate limit” means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.”

### **Section 12(4) provides that –**

“The secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority –

(o) by one person, or

(p) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.”

### **Section 12(5) – provides that**

“The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are estimated.”

## Vexatious or Repeated Requests

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### **Section 14(1) provides that –**

“Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious”

### **Section 14(2) provides that –**

“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 a previous request and the making of the current request.”

## Refusal of Request

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### **Section 17(1) provides that -**

“A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which -

(q) states that fact,

(r) specifies the exemption in question, and

(s) states (if that would not otherwise be apparent) why the exemption applies.”

### **Section 17(2) states –**

“Where–

(t) in relation to any request for information, a public authority is, as respects any information, relying on a claim-

1. that any provision of part II which relates to the duty to confirm or deny and is not specified in section 2(3) is relevant to the request, or

2. that the information is exempt information only by virtue of a provision not specified in section 2(3), and

- (u) at the time when the notice under subsection (1) is given to the applicant, the public authority (or, in a case falling within section 66(3) or (4), the responsible authority) has not yet reached a decision as to the application of subsection (1)(b) or (2)(b) of section 2,

the notice under subsection (1) must indicate that no decision as to the application of that provision has yet been reached and must contain an estimate of the date by which the authority expects that such a decision will have been reached."

**Section 17(3) provides that -**

"A public authority which, in relation to any request for information, is to any extent relying on a claim that subsection (1)(b) or (2)(b) of section 2 applies must, either in the notice under subsection (1) or in a separate notice given within such time as is reasonable in the circumstances, state the reasons for claiming -

- (v) that, in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the authority holds the information, or
- (w) that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information."

**Section 17(4) provides that -**

"A public authority is not obliged to make a statement under subsection (1)(c) or (3) if, or to the extent that, the statement would involve the disclosure of information which would itself be exempt information.

**Section 17(5) provides that –**

"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(6) provides that –**

"Subsection (5) does not apply where –

- (x) the public authority is relying on a claim that section 14 applies,
- (y) 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

(z) 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."

**Section 17(7) provides that –**

"A notice under section (1), (3) or (5) must –

(aa) 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

(bb) contain particulars of the right conferred by section 50."

## **Annex 2 – the complainant's 13 requests for information**

### **1) 3 November 2009**

Dear Sir or Madam,

Could you supply me with:

- 1) A list of the countries visited as part of this official trip organised by the University of Salford to China and any other countries in East Asia and South East Asia that constituted part of this trip in October-November 2009;
- 2) An itemised breakdown including the total cost of this trip;
- 3) The exact figures for the numbers of staff who participated in this trip on behalf of the University of Salford and other organisations;
- 4) Specific details of those who participated in this trip on behalf of the University of Salford and other organisations;
- 5) The specific organisation responsible for the cost of each participant's travel, hotel and expenses on this trip;
- 6) Can you also supply specific details of the travel agency(ies) responsible for the booking of flights and hotels for this trip to China and any other countries that constituted this trip on behalf of the University of Salford?

### **2) 3 November 2009**

Dear Sir or Madam,

I would like to be supplied with an itemised breakdown of each of the management retreats undertaken by the University of Salford 2008/09.

I would also like to be supplied with figures showing the total expenditure of the University of Salford and other costs accrued as part of all management retreats 2008/09.

Can you supply me with exact attendance figures for each management retreat organised by the University of Salford 2008/09.

**3) 11 November 2009**

Dear Sir or Madam,

Could you supply the total for the amount expended by the University of Salford for the management retreats 2008-09 including a breakdown of the total for each individual retreat.

By management retreats I take to mean all retreats attended by the wider management group in this period.

**4) 11 November 2009**

Dear Sir or Madam,

Can you please supply me with the total of all cost incurred as expenses, by the staff delegation on their visit to China/South East Asia in Oct-Nov 2009. By expenses I take this to mean any money refundable to individuals by the University, spent by them during this trip as part of their duties.

**5) 11 November 2009**

Dear Sir or Madam,

Can you supply me with the total costs for hotel & lodgings for the entire delegation who visited China/South East Asia on behalf of University of Salford Oct-Nov 2009.

**6) 11 November 2009**

Dear Sir or Madam,

Can you please supply the names of all those staff and partners who comprised the group who made the trip to China and South East Asia as part of the University of Salford delegation.

**7) 11 November 2009**

Dear Sir or Madam,

Can you supply me with the total costs for air fares, including return fares for all staff who made the recent Oct/Nov 2009 trip to China

**8) 13 November 2009**

Dear Sir or Madam,

Could you please supply me with the exact figure for purchased art works, expended by the University on behalf of the office of the Registrar and Vice chancellor for the period 2004-05, for the period 2005-06, for the period 2006-07, for the period 2007-08 and the period 2008-09.

**9) 13 November 2009**

Dear Sir or Madam,

Could you please supply me with the figures expended in the period 2008-09 on the registrar and Vice Chancellor's new glass office door.

**10) 13 November 2009**

Dear Sir or Madam,

Please could you supply me with the total costs for the booking of hotels for the management retreats 2005-06. By management retreats I take this to mean those attended by the overall management group.

**11) 13 November 2009**

Dear Sir or Madam,

Please could you supply me with the total costs for the booking of hotels for the management retreats 2006-07 By management retreats I take this to mean those attended by the overall management group.

**12) 13 November 2009**

Dear Sir or Madam,

Please could you supply me with the total costs for the booking of hotels for the management retreats 2007-08. By management retreats I take this to mean those attended by the overall management group.

**13) 13 November 2009**

Dear Sir or Madam,

Please could you supply me with the total costs for the booking of

hotels for the management retreats 2008-09. By management retreats I take this to mean those attended by the overall management group.