

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 April 2024

Public Authority: The Governing Body of Four Oaks Primary School

Address: Edge Hill Road
Sutton Coldfield
B74 4PA

Decision (including any steps ordered)

1. The Commissioner's decision is that the complainant's request for information broadly about safeguarding matters is a vexatious request under section 14(1) of FOIA.
2. It is not necessary for Four Oaks Primary School to take any steps.

Request and response

3. The complainant made the following information request to Four Oaks Primary School ('the School') on 16 September 2023:
 - "1. Copy of the Finance Committee meeting evidencing this investment.
 2. Copy of the last Resources Committee meeting minutes of 2022/2023.
 3. Copy of the 11 September Governing Body meeting minutes.
 4. Unredacted copy of the governing body meeting minutes from 26 June 2023. We note that there was extensive redaction in the section minuting the concerns we raised. As the school holds

data of ours which means we can be directly identified this should be provided to us unredacted under Subject Access.

5. Copies of the site risk assessment which you refer to which identifies the risks now mitigated and the risks that unsupervised children can come into contact with unsupervised non-DBS checked adults that the school has accepted.

6. An example (name redacted) of the lanyard given to parents.

7. Minutes of the safeguarding discussion you held with the Chair of the Safeguarding Committee (you refer to in Chair's report in the 26 June FGB minutes).

8. Correspondence with the LEA on matters relating to the enhanced security (changes made over the summer ready for September), including but not limited to the financing.

9. Copies of the last governing body effectiveness review for the last 3 full academic years.

10. The most recent copy of last two Safeguarding reports as defined in section 9 of the Safeguarding Policy."

4. The complainant also asked eight further questions in a separate part of their correspondence; these are more general questions about child welfare and safety at the school.

5. The School's final position was that the FOIA request was vexatious under section 14(1).

Reasons for decision

6. This reasoning covers the School's refusal of the complainant's request under section 14(1) of FOIA.

7. Under section 14(1) of FOIA a public authority isn't obliged to comply with a request for information if the request is vexatious.

8. Broadly, vexatiousness involves considering whether a request is likely to cause a disproportionate or unjustified level of disruption, irritation, or distress.

9. To analyse vexatiousness, the Commissioner considers four broad themes that the Upper Tribunal developed in *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (ACC):

- Value or serious purpose
 - Motive
 - Burden; and
 - Harassment to staff
10. The Commissioner will first look at the value of the request as this is the main point in favour of the requests not being vexatious. He will then look at the negative impacts of the requests ie the three remaining themes of burden, motive, and harassment, before balancing the value of the requests against those negative impacts.
 11. In their request for an internal review, the complainant said that the purpose of their request was to corroborate statements the Chair had made about safeguarding concerns they'd raised. The complainant said they wanted to check whether governance had been applied that was in line with the Governing Body's terms of reference. They said that an email the Chair had sent on 12 September 2023 had indicated that 'good governance' hadn't occurred.
 12. In its submission to the Commissioner the School has first provided a background and context to the request, as follows. First and foremost, the School says, its primary concern is the safety and well-being of its students, staff, and the overall school community. It has a duty to ensure a positive and respectful environment for everyone involved in the School.
 13. In this particular case, the School says that the complainant has been repeatedly sending harassing emails to the School, targeting members of staff, governors, and colleagues from Birmingham Local Authority. These emails contain threatening language, personal attacks, and unsubstantiated allegations. The content of these messages has caused significant distress and disruption within the school community and has deeply affected the running of the School. It has limited the School's ability to provide an effective education for all of its students.
 14. The effect of this behaviour is that the School has members of staff, including members of the Governing Body, who feel apprehensive or even scared to carry out their normal day to day roles, and feel distressed and threatened.
 15. In order to protect staff well-being and maintain a safe environment for students, the Governing Body decided to issue a refusal notice under section 14(1) of the FOIA in October 2023.
 16. The School has provided the Commissioner with further supporting information which he's reviewed and taken account of but hasn't detailed in this notice.

17. The School says it issued the refusal notice after nine months of emails from the complainant. There was also a meeting between the complainant, school leaders, governors, and a representative of the Local Authority. This concerned the matter that is the focus of the complainant's concern; that they don't feel that the School's pupils are safe as they come into the School each morning. The School has provided the Commissioner with a timeline summary of its interactions with the complainant. It says it's done absolutely everything it can to reassure the complainants and has proved to Ofsted and the Birmingham Safeguarding Team that all of its protocols are safe.
18. On this issue, the complainant won't accept the School's opinion, or the opinions of the Governing Body, the Local Authority, the Birmingham Safeguarding Team, or Ofsted. The complainant has continued to communicate with the School, making numerous demands. It was at this point that the School refused the request in this case as vexatious.
19. Refusing the request meant that, from that point the School no longer engaged in any direct communication with the complainant on these particular matters. However, the School says it has continued to communicate with them on other further statutory requests for information (under FOIA and under the data protection legislation) that they have continued to submit.
20. The Local Authority then advised the School to put in place a 'communication plan' so that all correspondence from the complainant went through the Local Authority (LA) initially. The LA would decide whether delivering these emails would cause even further distress to the intended recipients in School. In response to this, the complainant has continued to contact staff and governors by creating eight new email addresses to circumvent the communication plan.
21. The School says it understands the importance of open and constructive communication, and it always strives to maintain positive relationships. However, when people's behaviour becomes abusive and harassing, it's necessary for the School to take action to safeguard the well-being of its community.
22. The School has provided the Commissioner with evidence of all of the emails it's received, including their content and times they were sent. The School says it has also taken steps to involve the appropriate authorities and has sought legal advice through the Local Authority to address this issue effectively. The School has recently provided copious amounts of evidence to the Department for Education's (DfE) Complaints Compliance Unit to prove that its Governing Body has processed this complainant's complaints in line with its School Complaints Procedure, a policy which reflects DfE guidance. This is the

second time that the School has done this in light of this complainant complaining to DfE. The School has also taken advice from West Midlands Police who have agreed that this is a case of harassment against individuals within the school, and that they are willing to support the School in talking to this complainant and asking them to desist in their behaviour.

23. The School has concluded its submission by summarising relevant interactions with the complainant. The complainant has been corresponding with the School since October 2022. Amongst other correspondence, they have submitted 11 requests to the School under FOIA since that time. In February 2023, the complainant submitted a complaint to Ofsted about the School. Ofsted closed the case with the School not having to take any actions, as the Birmingham Safeguarding Team investigated the claims and found them not to be reflective of the School's day-to-day practice.
24. The School has noted that the legal definition of harassment is, 'when someone repeatedly behaves in a way that makes you feel scared, distressed or threatened.' It has provided the Commissioner with personal impact statements from various members of its staff which the School has sent to the LA. The School feels these statements reflect the toll this situation has had on staff mental health and well-being.

The Commissioner's conclusion

25. Initial requests that the complainant submitted to the School about their substantive concern may well have had a value and serious purpose. However, those concerns, and subsequent complaints, have been considered by Ofsted, the LA, the Birmingham Safeguarding Team and DfE, who found that the School didn't need to take any actions. Not satisfied with this outcome, it appears to the Commissioner that the complainant is now using FOIA to keep 'live' a matter that has concluded.
26. Compared to some complaints the Commissioner has considered where a public authority has applied section 14(1) to a request, the volume of FOIA requests the complainant has submitted to the School isn't significantly high. However, the tone and content of the complainant's correspondence and their wider behaviours have had a serious and negative impact on staff. It has left them feeling fearful to the extent that the School has contacted the West Midlands Police. West Midlands Police has agreed that the complainant's behaviour can be categorised as harassment.

27. The Commissioner is satisfied that, at this point, the value of the current request is minimal and that the motive behind the request is to continue a campaign of harassment against the School. Using FOIA to harass a public authority is a completely inappropriate use of the legislation. As such the Commissioner's decision is that the complainant's request is a vexatious request under section 14(1) of FOIA.
28. The Commissioner has found that the request in this case is vexatious. As such, he reminds the School that if the complainant submits more requests for information on the same subject, under section 17(6) of FOIA it's not necessary to issue the complainant with any further section 14(1) refusal notices. If the complainant finds that their FOIA requests don't receive any response from the School after 20 working days, they should submit a new complaint to the Commissioner.

Other matters

29. The Commissioner notes that part 4 of the request in this case includes an aspect that appears to be covered by the data protection legislation, as well as FOIA. If it hasn't already done so, the School should issue the complainant with a response to that aspect under the data protection legislation.

Right of appeal

30. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals
PO Box 9300
LEICESTER
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

31. 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.
32. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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