

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 5 November 2015

**Public Authority:** University of Cambridge  
**Address:** The Old Schools  
Trinity Lane  
Cambridge  
CB2 1TN

#### **Decision (including any steps ordered)**

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1. The complainant requested information regarding the definition of various conceptual terms in relation to the study of psychology. The University of Cambridge (the University) applied section 12(1) and 14(1) of the FOIA in refusing the request.
2. The Commissioner's decision is that the University is entitled to rely on section 14(1) in refusing the request. However he finds that the University did breach section 10 of the FOIA by failing to respond to the complainant's request within 20 working days.
3. The Commissioner does not require the public authority to take any steps.

#### **Background**

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4. The complainant in this case is a member of a not for profit organisation conducting a campaign with the aim of stopping sleepwalking murders and violence. The organisations aims are based on theories proposed by an individual who is also the founder and director of the organisation.

#### **Request and response**

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5. On 3 January 2015, the complainant sent a request for informaiton to the University asking it to confirm whether in the history of its

psychology department it has had a fundamental definition or meaning for the following terms:

- Sleepwalking (somnambulism)
- Intelligence
- Consciousness
- Intuition
- Mind
- Dream
- Mind and Body

The complainant also referred to an eighth term. However on examination of the request this did not compromise a definition but instead asked if the University would be willing to supply an expert witness in Court in support of its position.

6. On 3 February 2015, the complainant sent a further letter of clarification to the University and confirmed that the request was to include information contained within lecture notes. The request was phrased as follows:

*'STEP 1*

*Does your department hold any information at any time in its history, as regard (1) the specific definitions of each of those requests, numbered 1-8's. (Please answer yes or no).*

*STEP 2*

*If yes; then to please provide us with such definitions.*

*Where 'such definitions' as elucidated in the letter of request refer to: 'as ever discussed/mentioned in any symposia held by your department in its history or as ever, or as currently taught or discussed with your students in any forum whatsoever, including, but not exclusively, lectures, tutorials etc.*

*... since our request covers your records both past, present and continuous; it is pertinent for you to understand that we are entitled, for example, to the lecture notes of your lecturers on these.*

*... kindly provide us with lecture notes of your lecturers (as being presented to your students) and as are being delivered on these topics currently. Such lecture notes could even be the ones presented yesterday, last week, last month etc. or to be presented today tomorrow, next week, next month etc on these topics; to any segment whatsoever of your students.'*

7. On 15 February 2015, the complainant sent a further reminder to the University advising that it had not received a response to its previous correspondence.
8. On 16 February 2015, the University issued a refusal notice under section 12(1) and 14(1) of the FOIA.
9. On 26 March 2015, the complainant submitted an internal review request.
10. On 15 April 2015, the University issued its internal review decision. It upheld its application of section 12(1) and 14(1) of the FOIA.

### **Scope of the case**

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11. The complainant contacted the Commissioner on 12 May 2015, to complain about the way her request for information had been handled.
12. The Commissioner considers that the scope of this case is to determine whether the University has complied with the FOIA. As the University has applied both section 14 and section 12 of the FOIA the specific focus of the case is to determine whether the University is correct to rely on either section 12(1) or section 14(1) of the FOIA in refusing the complainant's request.

### **Reasons for decision**

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13. Section 14(1) of the FOIA states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious. There is no public interest test.
14. The term "vexatious" is not defined in the FOIA. The Upper Tribunal (information Rights) considered in some detail the issue of vexatious requests in the case of the *Information Commissioner v Devon CC & Dransfield*.<sup>1</sup> The Tribunal commented that vexatious could be defined as the "manifestly unjustified, inappropriate or improper use of a formal procedure". The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.

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<sup>1</sup> GIA/3037/2011

15. In the Dransfield case, the Upper Tribunal also found it instructive to assess the question of whether a request is truly vexatious by considering four broad issues: (1) the burden imposed by the request (on the public authority and its staff); (2) the motive of the requester; (3) the value or serious purpose of the request and (4) harassment or distress of and to staff.

16. The Upper Tribunal did however also caution that these considerations were not meant to be exhaustive. Rather, it stressed the:

*"importance of adopting a holistic and broad approach to the determination of whether a request is vexatious or not, emphasising the attributes of manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious requests"* (paragraph 45).

17. In the Commissioner's view the key question for public authorities to consider when determining if a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.

18. The Commissioner has identified a number of "indicators" which may be useful in identifying vexatious requests. These are set out in his published guidance on vexatious requests.<sup>2</sup> The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of a case will need to be considered in reaching a judgement as to whether a request is vexatious.

### **Burden imposed by the request**

19. The University advised the Commissioner that the history of psychological studies dates back to 1875 and the current Department of Psychology formed on 1 August 2012 from a merger of three previous separate departments or other units.

20. The University argued that the complainant's suggestion that such definitions may be held within lecture notes, or written papers presented

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[http://ico.org.uk/for\\_organisations/guidance\\_index/~media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/dealing-with-vexatious-requests.ashx](http://ico.org.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx)

to symposia or at other seminars, conferences or talks at any time in the departments history is extremely broad in scope and given the terms listed it is likely that many of them will have been 'defined' and discussed many thousands of times in the Department's history since 1875, and many hundreds of times since August 2012.

21. The University advised the Commissioner that it was not clear whether the complainant intended to limit the scope of the request to the period of approximately 2½ years since the creation of the current Department of Psychology, or whether the scope of the enquiry dates back to 1875 or some other point in history.
22. The Commissioner notes that if the public authority required clarification it should have contacted the complainant to confirm the scope of the request. However, in the Commissioner's view the fact that the University did not do this does not materially affect the arguments it has relied upon for the application of section 12(1) and 14(1).
23. The University argued that even if it were to proceed on the basis that the scope of the request was limited to the 2½ year period since 2012 when a single Department of Psychology was established, the lecture and other teaching notes of around 80 contributors to the departments teaching programme would need to be searched in order to ascertain whether or not they contained any definitions of the concepts listed by the complainant. The University advised the Commissioner that in 2014-15 its teaching programme for the Department of Psychology consisted of 561 lectures, practical's, classes and seminars for both undergraduate and postgraduate students.
24. The University also advised the Commissioner that the Department of Psychology arranges or hosts approximately 6 scientific conferences/meetings/talks per year. As such the various papers and presentations produced in relation to those conferences/meetings/talks would need to be searched in a similar manner.
25. The complainant argued that it has limited the request to, at the very least, lecture notes on the topics listed in its letter dated 3 January 2015, and therefore the University only needs to provide information where such topics are taught in its curriculum.
26. The University argued that the search of teaching materials could not be limited to the occasions on which the seven concepts are specifically taught as concepts such as 'consciousness' and 'mind' are central to psychological investigation and would be taught in different ways across multiple aspects of the discipline.

27. The University estimated that it would take approximately 15 minutes for each member of academic teaching staff to search each set of their lecture notes or other teaching materials and it would take approximately 2 hours to search each set of papers from each scientific conference/meeting/talk.
28. The University calculates that it would take in excess of 380 hours of staff time to locate and retrieve the information requested based on 1402 teaching occasions and 15 conferences /meetings/talks held over the 2 ½ year period since the creation of the current Department of Psychology. The University therefore felt entitled to refuse the request under section 12(1) of the FOIA, on costs grounds alone. However it also chose to apply section 14(1) as it considers that the request lacks purpose or value and when taken in context with other correspondence from the complainant has caused harassment.
29. The Commissioner accepts that complying with the request would cause a significant burden on the University. Even if the time estimated by the University to locate and extract the information was halved it is still likely to exceed the appropriate limit under the FOIA and this does not take into account the further burden which would be caused by attempting to locate and identify information which pre-dates the creation of the current Department of Psychology.
30. The Commissioner considers that the complainants argument that it has limited its request to lecture notes on topics which are taught in its curriculum rests on an assumption that the University's Department of Psychology relies on a fundamental definition for various concepts relating to the study of psychology which it can easily extract from the teaching materials it holds in relation to the subject. However, University studies in general involve examining, discussing and testing a multitude of different theories, arguments and definitions from numerous sources. Indeed the complainant appear to recognise that many definitions for the concepts listed in its request are likely to exist when it states in its letter dated 3<sup>rd</sup> February 2015, that:  
  
*'... while hundreds, perhaps thousands of definitions abound on these from just as many quarters (including the ones credited, as examples, to Fadahunsy in the letter of request); our request is specifically for; 'as taught in your lectures or discussed in your symposia; regardless of what your source or sources of the information for such may be.'*
31. The Commissioner agrees with the University's argument that the concepts referred to by the complainant will have been discussed many times in the Department's history. The Commissioner considers that the teaching programme would include an analysis of a number of

definitions of psychological terms obtained from a variety of sources. In the Commissioner's view, given the extremely broad scope of the request any calculation of the time taken to locate and extract the information requested by the complainant is likely to impose a significant burden on the University should it attempt to comply with the request.

32. While the Commissioner is of the view that the University has provided a strong case for arguing that complying with the request would exceed the fees limit he has gone on to consider the University's additional arguments in relation to its application of section 14(1).

### **Harassment to the public authority**

33. The University advised the Commissioner that the complainant's information request was not the first correspondence that had been received by the Department of Psychology from the director of the organisation personally or from other members of the organisation. It stated it has received a number of letters addressed to the Head of the Department of Psychology from the director of the organisation asking for financial and other support for his work.
34. For example, in a letter dated 9 September 2014, this individual asks for the University to fund a paid trip from London to Auckland, including accommodation and food expenses for two weeks, in order to conduct research into the circumstances surrounding the death of a pilot from New-Zealand who was said to suffer from depression, for the purpose of a study in relation to negative moods. In the same letter he also asks the University to provide a letter of support for his research activities as a result of not being affiliated to any institution.
35. The Commissioner notes that in addition to the information requested by the complainant in her letter dated 3 January 2015, the complainant also seeks assurances that the director's theories, upon which the organisation is based, do not contradict any known scientific rules or existing beliefs on the subject. The complainant also asks the University if it would be prepared to be called as an expert witness in court cases concerning sleepwalking violence and whether it agrees with its position regarding the inability for sleepwalkers to commit acts of violence and murder.
36. The University therefore argues that the FOIA request forms part of on-going harassing correspondence the Department of Psychology has received seeking its support for these theories.
37. When considered in the context of the previous correspondence the director has sent to the University in an attempt to obtain funding for

further research and academic support for his theories the Commissioner is of the view that the complainant's request forms part of a trail of communication which has caused harassment to the University.

### **Value or serious purpose**

38. The University considers that the request carries no purpose or value. It states that there is no scientific basis for the theories upon which the organisation is based
39. The University considers that engaging in such correspondence and in particular complying with the request which is the subject of this notice is a waste of public resources and detracts from its mission to contribute to society through the pursuit of education, learning and research at the highest levels of international excellence.
40. The complainant has explained that she is a member of a not for profit organisation conducting an international campaign for a public cause, that has the aim of stopping sleepwalking murders and violence. The complainant also advised that the campaign was established on the basis of research carried out by its director and therefore it is collating information from different universities in order to determine if the theory's and conclusions have the necessary scientific justification for the campaign to continue to exist.
41. However in the Commissioner's view the burden imposed on the University is not proportionate to the complainant's stated purpose or any inherent value in the request. In particular the Commissioner considers that the complaint is essentially using the FOIA in an attempt to prove or disprove these theories or at the very least obtain some academic support or scientific validation for the theories on which its campaign is based. In the Commissioner's view this constitutes a manifestly unjustified, inappropriate or improper use of the FOIA.

### **Conclusion**

42. The Commissioner accepts the University's position that the burden imposed on the University in complying with the request would be substantial and that taken into context of other correspondence submitted from others linked to the organisation the complainant's request forms part of a trail of communication which has caused harassment.
43. In the Commissioner's view the motive behind the request is to obtain some support or rejection of the theories upon which the organisation is



based. The ultimate goal of which is to enable the complainant to decide whether to continue its campaign.

44. The Commissioner considers that submitting a freedom of information request for definitions of various psychological terms as taught to students in an attempt to validate or disprove theories and therefore determine whether the complainant should continue its campaign is not an appropriate or proper use of the FOIA procedure. Therefore the purpose or value in the request does not justify the substantial burden that would be imposed on the University.
45. Taking account of all the factors set out in this notice the Commissioner finds that section 14(1) is engaged.

### **Section 10**

46. The complainant also complained that the University did not respond to its information request dated 3 January 2015, within 20 working days.
47. The University maintains the position that the complainant's initial letter did not constitute a valid request under the FOIA.
48. However the Commissioner notes that the University did consider that the complainant's subsequent correspondence dated 3 February 2015, did constitute a valid request and issued a refusal notice in response.
49. While the complainant's initial letter dated 3 January 2015, is somewhat unclear and was addressed to the Head of the Department of Psychology rather than the University's FOIA department, the letter does refer to a 'request for information under the information Act' in the header of the text and also within the body of the letter.
50. Furthermore there appears to be little material difference between the complainant's initial letter and its subsequent letter dated 3<sup>rd</sup> February 2015 which the University responded to under the FOIA other than confirming that the request was to include information held in lecture notes.
51. The Commissioner therefore considers that the complainant's letter dated 3 January 2015 did constitute a request under the FOIA. If the University was under any confusion as to whether the complainant was submitting a request under the FOIA or required further clarification it should have contacted the complainant to advise of this as per its obligations to provide advice and assistance under section 16 of the FOIA.

52. On this basis the Commissioner considers that the University is in breach of section 10 of the FOIA in failing to respond to the complaint's request dated 3 January 2015, within the statutory timeframe.

## Right of appeal

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

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

Tel: 0300 1234504  
Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

54. 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.
55. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Rachael Cragg**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**