

PROTECT

10 October 2012

Case Reference: FS50433994
HSE Appeal Reference Number: 20120500355

Dear Ms Cloherty

I am writing in regard to a complaint made to the Information Commissioner by a Mr Dransfield. This complaint is in relation to a request he made on 6 February 2012 for "*copies of the HSE Investigation undertaken at any of the 6 PFI schools in Exeter.*" The HSE initially refused this request as vexatious.

You have previously corresponded with Mr Craig Withers at the ICO about this case. However Mr Withers no longer works as the ICO and as I was his team manager, I am now emailing you about this case.

I understand that the HSE carried out an internal review in May in relation to Mr Dransfield's request, and (from reading the 'whatdotheyknow' website, it appears that you provided a document (redacted under section 40) that you said was the only information you hold that falls under this request.

Mr Dransfield has contacted the ICO again, and has asked for this case to be continued (Mr Wither's originally closed it down because – at the time – no internal review had been carried out). Therefore I am writing to let you know that this complaint will now be looked at by the ICO.

However, due to the length of time since the original case was closed, I have arranged for a new case to be set up, which will have a new reference number. You should receive a standard email about this from us, letting you know that the case has been set up and showing the new reference number. The case will then be placed into my team's queue for allocation to a case officer, who will then process the case accordingly.

If you have any questions please do not hesitate to contact me on 01625 545 671.

Yours sincerely

Christopher Hogan
Team Manager – Complaints Resolution (Group 3)

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Case Reference Number FS50433994

11 October 2012

TELEPHONE NOTE:

I rang Jane Cloherty in response to her email.

Ms Cloherty wanted to give me some background information, and queried whether it was necessary to reopen this case. She told me that she understood that this matter had already been dealt with.

She told me that in 2006 the HSE had been contacted by the National Audit Office. It asked whether they were aware of safety concerns raised by Mr Dransfield about PFI Schools in Exeter. The HSE considered that this fell outside its remit. However, it carried out an informal investigation of these concerns – which found no issues. It wrote to Mr Dransfield & informed him of this investigation & the result, & advised him to contact Exeter City Council – who it believed were the appropriate authority.

Mr Dransfield did not accept these findings, and has continually contacted the HSE about this.

Consequently, in 2007 HSE banned his contact with them on this issue. It offered him a single point of contact to allow him to raise any new issues.

In March 2011 Mr Dransfield made an FOI request about the PFI Schools issue, and HSE's decision to ban him from emailing them about this. This was refused under s.14.

In February 2012 Mr Dransfield submitted another request (which was the focus of Craig Wither's case. HSE considered this to be for the same information as asked for in March 2011. Therefore it informed Mr Dransfield that it had already dealt with this before, and it wasn't going to respond again.

Subsequently, they had been contacted by Craig. He had informed Jane in a telephone call that he did not see the February 2012 request as a repeated request. Consequently the HSE carried out an internal review, stated that other than the informal investigation report it did not hold anything else, & disclosed a redacted copy of the informal investigation report (under s.40).

Since then they had also had an RFA case carried out by Drew – which

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found that they should have handled his request for info on their decision to ban him from emailing them as an SAR.

I thanked Jane for this detailed information. However, I pointed out that Mr Dransfield wanted an s.50 case on its handling of his request of February 2012. As far as we were concerned this had initially been turned down as vexatious, but at internal review the HSE had stated instead that it held 1 document & had disclosed it in a redacted format (under s.40(2)). Therefore, this was still a case that we would have to consider.

She accepted this, although she suggested that the internal review response had been coloured by Craig's telephone call in which he said that he didn't consider the February 2012 request as a repeated one. She suggested that she still thought that s.14 may apply to this request.

I advised her that she should raise these concerns with the case officer for the new case (when one is allocated) if she thought that these were valid points to make. She accepted this.

I also advised her to contact me if she had any further queries before the new case was set up & allocated. She said that she would.

Chris Hogan
Team Manager - Group 3

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11 October 2012

Case Reference Number FS50468181

Dear Ms Clöherty

**Freedom of Information Act 2000 (FOIA)
Complaint from Alan Dransfield
Information request made 6 February 2012**

The Information Commissioner has received a complaint from Alan Dransfield. It is alleged that he did not receive a satisfactory response to his request. His request can be found here:

http://www.whatdotheyknow.com/request/exeter_pfi_schools_reports#incoming-251980

We have carried out an initial assessment of this case and deemed it eligible for formal consideration under s50 of the FOIA.

Where information has been withheld because you (the Public Authority) have applied one of the exemptions in Part 2 of the FOIA, the case officer will need to have a copy of the information to judge whether or not any exemptions have been properly applied. We would also appreciate where you are able, for you to be specific about which exemptions apply to each part of the information. At this stage we only ask that you prepare this information, please do not send it to us until it is requested by the case officer.

(Please note: the above paragraph will only apply in circumstances where you hold the information but have refused to supply it because you are applying any of the exemptions in Sections 21-44 of the FOIA).

We emphasise that although we have assessed the complaint as being eligible for the Information Commissioner to decide whether a public authority has dealt with a request for information in accordance with Part I of the Act, no specific decision has been made as to the individual merits of the complaint at this time.

Finally, you should be aware that the Information Commissioner often receives requests for copies of the letters we send and receive when dealing with casework. Not only are we obliged to deal with these in accordance with the access provisions of the Data Protection Act 1998 (DPA) and the Freedom of Information Act 2000 (FOIA), it is in the public interest that we are open, transparent and accountable for the work that

we do.

However, whilst we want to disclose as much information as we reasonably can, there will be occasions where full disclosure would be wrong. It is also important that the disclosures we make do not undermine the confidence and trust in the Commissioner of those who correspond with him.

I would be grateful if, at the appropriate time, you would indicate whether any of the information you provide in connection with this matter is confidential, or for any other reason should not be disclosed to anyone who requests it. I should make clear that simply preferring that the information is withheld may not be enough to prevent disclosure. You should have a good reason why this information should not be disclosed to anyone else and explain this to us clearly and fully.

If you have any specific concerns, please contact the Helpline on 0303 123 1113. Please quote the reference number from the top of this letter.

Yours sincerely

Sent on behalf of
Rachael Cragg and Pam Clements
Group Managers
Complaints Resolution
Information Commissioner's Office

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8th November 2012

Case Reference Number FS50468181

Dear Ms Cloherty

Please find attached a letter concerning the above case. Please do not hesitate to contact me should you wish to discuss this matter.

I should be grateful for an acknowledgement of receipt.

Regards
Nicola

Nicola Humphries
lead Case officer
Information Commissioner's Office
01625 545340

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17th January 2013

Case Reference Number FS50468181

Your Reference: 2012120352

Dear Ms Cloherty

Thank you for your letter dated 3 January 2013 regarding the above case.

I have now written to Mr Dransfield and informed him that as a preliminary conclusion, the Commissioner is satisfied that the Health and Safety Executive (HSE) has provided him with all the information it holds with respect to his information request of 2 February 2012.

I have asked Mr Dransfield whether he accepts the above preliminary conclusion and is content that this case should be closed, or whether he requires a decision notice on this matter. I shall inform you as soon as he has informed me how he wishes to progress his complaint.

Thank you for your help.

I should be grateful for an acknowledgement of receipt of this email.

Regards

Nicola

Nicola Humphries
Lead Case Officer
Information Commissioner's Office
01625 545340

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RECORD OF TELEPHONE CONVERSATION

DATE: 18/1/13

TIME: 15:00

CASE REF. NUMBER: **FS50468181**

NAME OF CALLER/ORGANISATION: Jane Cloherty / HSE

TELEPHONE NUMBER: 0151 951 [REDACTED]

JC rang me back. I explained that Mr Dransfield wanted a DN and I just wanted to clarify a few points. I explained that I had interpreted the request as a request concerning formal Investigations conducted by HSE but wanted to confirm that it held no other information concerning the decision not to investigate.

JC explained their system. In particular I asked whether it held a site report re the scaffolding complaint and she explained Mr Dransfield had already received this. She confirmed she considered the request was concerning any formal investigation that Mr Dransfield considered should have taken place but she explained that all they hold is the briefing note he has been given.

She informed me of their processes:

1. When HSE receives a complaint which it will not formally investigate, it will record the complaint on its COIN system indicating that it has been considered and rejected and then write by email/letter to the complainant to inform them of this decision.
2. The letters are kept for 6 months from the date of the last action.
3. Mr Dransfield has a copy of the letter he was sent concerning the scaffolding issue but HSE no longer has a copy.
4. Mr Dransfield has a copy of the COIN record regarding the scaffolding issue and that is still held by HSE.

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5. Mr Dransfield has a copy of the site report which was completed with respect to the scaffolding complaint.

6. The only other information held is the briefing note which Mr Dransfield was sent on 21 May 2012.

7. There is therefore no other information held which records any discussion regarding the two complaints and whether they fall under the remit of HSE.

We agreed I would put the above in an email so she could confirm my understanding is correct.

Follow-up email

I asked her to confirm that the above is correct and also when Mr Dransfield received the site report.

I have also asked her to confirm whether there is a COIN record or letter concerning the refusal to investigate the first complaint about the footbridge held by HSE.

In addition I asked her to clarify with respect to point one above, whether all complaints are logged onto the COIN system, whether they are accepted or not? I asked her to explain what COIN stands for (as I will need to expand it in the decision notice).

I confirmed I shall begin to prepare the decision notice next week if possible.

NH

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Ms Jane Cloherty
FOI Policy Advisor
Health and Safety Executive
1.G
Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS

30 January 2013

Dear Ms Cloherty

**Freedom of Information Act 2000 (FOIA)
Mr Alan Dransfield FS50468181**

Please find enclosed a copy of the decision notice relating to a complaint from Mr Alan Dransfield. This has been sent to Mr Geoffrey Podger, Chief Executive of the Health and Safety Executive.

The complaint has been considered by the Commissioner and the decision notice sets out the reasons for the decision. If you disagree with the decision notice you have the right to appeal to the First-tier Tribunal (Information Rights).

The Commissioner will publish this decision on the ICO website, but will remove all names and addresses of complainants. If you choose to also reproduce this decision notice, then the Commissioner expects similar steps to be taken.

I hope the above information is helpful.

Yours sincerely

Nicola Humphries
Lead Case Officer

Mr Geoffrey Podger
Chief Executive
Health and Safety Executive
Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS

30 January 2013

Dear Mr Podger

Freedom of Information Act 2000 (FOIA)
Mr Alan Dransfield FS50468181

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I hope the above information is helpful.

Yours sincerely

Nicola Humphries
Lead Case Officer
Information Commissioner's Office