

Mr Alan Dransfield

6 May 2020

Case Ref: IC-37786-K7R7

Dear Mr Dransfield,

I write in respect of your complaint about the Cabinet Office which you submitted to us on 1 April 2020.

You will recall that Adam Sowerbutts, the then-Head of FOI Complaints, wrote to you on 15 March 2018 to inform you that the Commissioner was declining to investigate five complaints that you had submitted because she considered them to be vexatious. The letter set out in some detail why the Commissioner had reached that view. You will also be aware that the Commissioner has continued to refuse the complaints which you have submitted since that date as vexatious – with Mr Sowerbutts' letter being repeatedly cited as setting out the justification for that approach.

Given that it is now more than two years since that letter was first sent, we have reviewed our approach to complaints which you submit to us to consider whether that approach remains both reasonable and proportionate – or whether it needs to be refined.

Mr Sowerbutts' letter set out five broad reasons why your conduct, in making requests and complaints, under the FOIA was inappropriate and likely to bring the Act into disrepute. These were:

- That, despite having engaged with the process at the time, you refuse to accept the judgement in *Dransfield v Information Commissioner & Devon County Council* [2015] EWCA Civ 454.
- You had, at that point, failed to repay the costs that were awarded against you, arising from the above case, or enter into any meaningful discussion regarding the repayment of those costs.
- Your tendency to follow the process of the FOIA only when it suited your purposes: exercising your rights, but refusing to accept the concomitant responsibilities.

- Your continued use of language that is both intemperate and inappropriate when communicating with both public authorities and the ICO.
- That you continued to make defamatory statements about the Commissioner and her staff.

Having considered each of the above points individually, it does not appear that there has been any significant change in your behaviour over the intervening two years.

It is evident from the correspondence which you regular submit to, or copy to, that you continue to refuse to accept the Court of Appeal's ruling in *Dransfield v Information Commissioner & Devon County Council* [2015] EWCA Civ 454. You exhausted your appeal rights in that case, yet you continue to refer to "the Dransfield Vexatious BS Court Precedent", "the Dransfield vexatious hogwash" or similar.

More concerningly, it is apparent that you continue to engage in a concerted campaign to encourage public authorities to disregard the judgement in *Dransfield v Information Commissioner & Devon County Council* [2015] EWCA Civ 454, despite the fact that this judgement represents good and binding case law. You also object to public authorities referencing the judgement by using your name – despite it being in the public domain that you were the plaintiff in the above case.

Furthermore, I note that you continue to refuse to settle the outstanding court costs arising from *Dransfield v Information Commissioner & Devon County Council* [2015] EWCA Civ 454. Your offer of a repayment schedule which would have needed to run for in excess of a hundred years to recoup the original sum alone was clearly risible. The Commissioner made a reasonable offer to accept a repayment schedule of £100 per month. You rejected that offer, but have failed to put forward any reasonable counter-offer for consideration.

The correspondence which you have sent to the Commissioner in recent months demonstrates that you are continuing to use the FOIA to make requests. Equally, it is evident from your correspondence and social media posts that you refuse to accept the right of public authorities to refuse requests as vexatious – particularly where the public authority in question cites *Dransfield v Information Commissioner & Devon County Council* [2015] EWCA Civ 454 or the Upper Tribunal case which preceded it.

The language and tone of your correspondence with both public authorities and the Commissioner's Office has shown no signs of improvement since Mr Sowerbutts first wrote to you. The language is

designed to insult and offend the individuals dealing with your requests and complaints.

Whilst this language is no longer directed at individual members of her staff, I consider that this has only come about because the Commissioner has declined to investigate the recent complaints which you have submitted. I consider it highly likely that, were the Commissioner to consider this complaint further, this language would once again be directed at members of her staff.

Finally, your defamatory statements about the Commissioner show no signs of abating. You continue to refer to her variously as a "fraudster", "cheat" and "liar". Last year you attempted, without justification, to suggest that the Commissioner and staff at the ICO were complicit in the death of a vulnerable man. Once again, this trend shows no sign that it is likely to stop in the near future.

Under Section 50(2)(c) of the Freedom of Information Act 2000 the Commissioner has the right to dismiss a complaint if she believes the complaint to be frivolous or vexatious. The ICO considers that a complaint may be thought of as frivolous if it has no serious intent, or is considered unworthy of serious treatment.

The application of Section 50(2)(c) has similarities to that of Section 14(1) whereby a public authority is under no obligation to deal with a request which is found to be vexatious. The ICO will take into account both the complainant's apparent purpose and the effect of handling the complaint, whether or not intended. It is not necessary to demonstrate both intent and effect in order for Section 50(2)(c) to be applicable; if the effect alone is unwarranted that may be sufficient reason to justify treating a complaint as frivolous or vexatious.

The ICO must consider the effect that dealing with such complaints will have, both in relation to our duty to make effective use of our limited resources, and in ensuring that this office and the Act are not brought into disrepute by progressing complaints which do not justify serious consideration.

Having reviewed all the evidence, it is apparent that Mr Sowerbutts' letter to you in 2018 has not caused you to modify your behaviour in any way. Nor have you demonstrated any improvements in your willingness to engage in the FOIA process other than entirely on your own terms. Your conduct brings the legislation itself into disrepute and, for the Commissioner to accept your complaint and issue a decision, would risk suggesting her tacit approval of such tactics.

The decision to refuse to deal with this complaint because the Commissioner considers it engages section 50(2)(c) FOIA is final and is not subject to further internal review. Therefore, should you wish to challenge this decision, you will need to seek a judicial review. There are strict time limits to seeking such a review and if you intend to do so, we would recommend that you seek independent legal advice without delay, specifically drawing your legal adviser's attention to the date of this letter.

You may also seek to complain to the Parliamentary and Health Service Ombudsman. In order to pursue such a complaint, you should contact your local MP.

The ICO will continue to consider the individual circumstances of any complaint you submit. However, in the absence of any meaningful, sustained improvement in your engagement with the FOIA process and whilst you remain a delinquent creditor, it is likely that the Commissioner will continue to use section 50(2)(c) of the FOIA to refuse your complaints.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew White', with a long horizontal stroke extending to the right.

Andrew White
Interim Head of FOI Casework
Information Commissioner's Office