

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date 30 March 2009

Public Authority: University of Bradford
Address: Richmond Road
Bradford
West Yorkshire
BD7 1DP

Summary

The complainant made a request under the Freedom of Information Act 2000 (the "Act") to the University of Bradford (the "University") for information held by the University on extremist activity over the last two years. The University provided some information to the complainant and confirmed that the information it had provided to him was all of the information it held relevant to the scope of the request. The Commissioner considers that the University complied with section 1(1)(a) and (b) of the Act as it confirmed what information it held by the time of the internal review and provided that information to the complainant. However as the University did not comply with section 1(1)(a) and (b) within 20 working days of the date of the request the Commissioner considers that section 10(1) was breached.

The Commissioner's Role

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.

The Request

2. In an email dated 14 April 2008 the complainant made a request to the University for the following information:

"...please provide the information Bradford University holds on extremist activity over the last two years.

This should include copies of any documentation, reports, letters or other recorded information on the issue."

3. The Commissioner is aware that there may be more than one possible reading of this request. However the Commissioner considers it to mean information on extremist activity at Bradford University over the past two years. Upon consideration of the University's responses to the complainant the Commissioner believes that this is the meaning the University gave to the request and this was not challenged by the complainant.
4. On 30 April 2008, the University wrote to the complainant and disclosed some information relevant to the scope of his request. This included extracts from two Senate debates held on 28 March 2007 and 2 April 2008.
5. The University clarified that the only other information it held which related to the issue of extremist activity was part of High Court records and included statements taken from members of its staff by the police from its computer centre, computer hard drives which were confiscated by the police as part of an investigation and log in and log out times of students who were the subject of the police investigation. The log in and log out information was dealt with by the University under an earlier separate request made by the complainant and the Commissioner has dealt with this information under a separate decision notice reference FS50197666. This information has not therefore been considered any further in this notice.
6. On 30 April 2008 the complainant replied to the University. The complainant noted the following from the extract from the senate meeting held on 2 April 2008:-

“The Vice Chancellor responded that the University had engaged in extensive discussions with the Minister of State in the Department for Innovation, Universities and Skills, Bill Rammell about the Government's perception of extremism, about how this was developing and being interpreted and about the steps that were necessary within the University to deal with the potential for extremism. That considerable work was being done at a strategic level in the areas of community cohesion and interfaith dialogue.”

The complainant suggested that this being so, there must be further recorded documentation surrounding these discussions in the form of letters, reports, emails or any other form of recorded communication. The complainant therefore asked the University why these have not been provided.
7. On 8 May 2008 the University responded to the complainant. The University confirmed that senior officers and University stakeholders had met with Bill Rammell on two separate occasions within the past 2 years, 7 June 2006 and 20 February 2008. It enclosed a

copy of the programme for the meeting on 7 June 2006. With regard to the meeting arranged in February 2008 the University explained that the Minister was on a 'whistlestop tour' of West Yorkshire which included visits to other schools and colleges. It explained that the meeting at the University was originally scheduled for an hour but unfortunately the Minister was only able to attend for 30 minutes due to the time constraints of his other commitments. It clarified that the focus of the meeting was the widening of participation and bursaries. It explained that documentation sent to the Minister in advance of the meeting included information on student progression, a widening participation bid, bursaries and a National Student Survey trend analysis.

8. The University confirmed that there was no other documentation, reports, letters or other recorded information on the issue of extremism at the University other than already disclosed.
9. On 8 May 2008 the complainant wrote to the University to ask it to carry out an internal review. The complainant referred again to the senate extract outlined at paragraph 5 of this notice. He questioned why these extensive discussions had not been recorded in any way.
10. On 13 May 2008 the University wrote to the complainant with the result of the internal review it had carried out. It provided the agenda for Bill Rammell's visit to the University in February 2008. It explained that extremism was discussed during this meeting as a part of international and national security relations. The University explained that it is not unusual for a Vice-Chancellor of a University to have meetings of this nature on a regular basis. It clarified that these meetings vary in attendance and also may include MI5, MI6 and the police. The University stated that minutes are not taken at these meetings, due to the sensitive issues which are raised.
11. The University continued that in order to create a socially cohesive campus it had a number of systems in place. These systems developed from a combination of informal discussions and the policy guide from Universities UK (UUK) entitled; Promoting good campus relations: dealing with hate crimes and intolerance. The University provided the complainant with a website link to access this policy. The University explained that the guidance from UUK provided a means by which institutions could adopt a holistic process of dealing with hate crimes and intolerance, whilst promoting good relations. However it clarified that it must take care that any steps to prevent illegal activity do not alienate one particular community or drive activity underground where it is even harder to detect. It explained that this is why it had developed programmes of on-going activities to ensure it maintained a socially cohesive campus and had a devoted team to widening participation.

The University stated that there were no further reports or recorded information relating to the request to declare.

The Investigation

Scope of the case

12. On 13 May 2008 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to investigate whether the University's statement that it did not hold any further information was correct.
13. The Commissioner also considered whether the University had responded to the complainant's request in compliance with section 10(1) of the Act.

Chronology

14. On 6 June 2008 the Commissioner wrote to the University to inform it that he had received a complaint from the complainant and that the case was eligible for investigation.
15. On 25 June 2008 the University contacted the Commissioner. The University explained that the complainant had been informed that Universities UK had produced guidance on extremism as outlined in 'Promoting Good Campus Relations'. A website link to this document had been provided to the complainant. The University continued that the Department for Innovation, Universities and Skills (DIUS) had also issued guidance entitled 'Promoting good campus relations, fostering shared values and preventing violent extremism in Universities and Higher Education Colleges'. It clarified that the latter was published in November 2007 as a result of debates conducted with the University by Bill Rammell the Minister of State for Higher, Further Education and Lifelong Learning. The University conceded that such debates were the subject of continued and ongoing oral discussions with the Minister. The University explained that in addition to the DIUS publication, many speeches made by the Minister on this topic are publicly available and can be accessed on the DIUS website¹. The University confirmed that the extract of the Senate minutes that were provided to the complainant on 30 April 2008 were retrieved subsequent to the complainant's earlier request (FS50197666). The University confirmed that no other documentation existed that has been produced by the University regarding the subject of extremism.

¹ <http://www.dius.gov.uk/>

16. The Commissioner contacted the University on 15 November 2008 in order to discuss its handling of the complainant's request and to establish whether it held any further information relevant to the complainant's request (other than that which is being dealt with under case reference FS50197666). The Commissioner asked the University for clarification in relation to the following points:
- Did it hold any further recorded information relevant to the scope of the complainant's request?
 - Was any further information ever held?
 - If so, when did it cease to retain this information?
 - Did the University have a record of the documents destruction?
 - What did the University's formal records management policy say about the retention and deletion of records of this type?
 - What steps were taken to locate the requested information? It was asked to provide a detailed account of the searches that had been conducted.
 - For what business purposes would it have held the information?
 - Finally it was asked whether there were any statutory requirements to keep the information requested?
17. On 22 December 2008 the University responded to the Commissioner. The University confirmed that there was no further information held to provide to the complainant. It clarified that there was no information held other than which had already been provided to the complainant and the information which is the subject matter of case reference FS50197666. The University clarified that the meetings and discussions with Bill Rammell did not generate any written records due to the sensitive nature of the discussions. The University explained that it did not have a Records Destruction Policy but it is in the course of drafting a records management policy to cover retention and destruction. It explained that the existing Retention of Documents Policy did not address documents of the type in this case.
18. The University explained that the steps taken to locate the information included the Legal and Governance Officer contacting key personnel across the University to inform them of the request and to request information. The key personnel were identified in accordance with the subject matter and included members of the

Senior Management Team, IT colleagues, and academic schools. The University stated that if the information had been held it would have been part of the management of the safety of the campus and the academic related issues arising from the subject. Finally it confirmed that there were no statutory requirements for it to hold the requested information.

19. On 9 January 2009 the Commissioner wrote to the University to obtain further clarification. The Commissioner asked, in relation to the discussions between the University and Bill Rammell, if notes were not taken due to the sensitive nature of the discussions, how did the University follow up any action plan that may have come out of such meetings.
20. On 23 January 2009 the University responded to the Commissioner. It explained that any actions ensuing from discussions about extremist activity either with government ministers, the police or counter terrorism unit would be followed up immediately. Such actions may have focused on the arranging of additional meetings (for discussions) either with those agencies referred to or with the students' union, faith advisers and other parties as appropriate, with the common aim of achieving a socially cohesive campus. The University explained that the complainant was asked to clarify whether he wished to focus his request on those activities (that is activities aimed at achieving a socially cohesive campus) and he reiterated that his request was for "information on extremist activity."
21. It explained that an action of the meetings with Bill Rammell was that officers at the Senate were advised on what steps they should take if concerned about a change in a student's behaviour.
22. The University explained that it did not routinely monitor the computer activity of either its staff or students. It stated that its Department of Peace Studies and its students' legitimately conduct research which can include access to extremist websites. However, if any matters of concern were reported, the University did have the facility to monitor computer use and there have been a limited number of cases of misuse reported to the police for investigation in the past, but those cases have not been for activities pertaining to extremism.

Analysis

Procedural matters

Section 1

23. Section 1(1) of the Act states that:

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

*(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
(b) if that is the case, to have that information communicated to him.”*

24. The Commissioner has considered whether the University has complied with section 1(1)(a) and (b) of the Act.
25. In this case the University has provided some information to the complainant. It has provided extracts from two senate debates, copies of the programmes of the meetings between the University and Bill Rammell in June 2006 and February 2008 and the policy guide from Universities UK (UUK) entitled; Promoting good campus relations: dealing with hate crimes and intolerance. The University has stated that this is the only information it holds relevant to the scope of the complainant's request.
26. The University has explained that it does not keep a record of meetings or discussions relating to the issue of extremism between itself and Ministers due to the sensitive nature of such. It has contacted the relevant personnel within the University to confirm this. It has explained that any follow up actions which come out of such meetings are dealt with immediately. The University gave examples of the types of follow up actions that may occur such as setting up further discussion forums with the aim of achieving a socially cohesive campus. The University confirmed that the complainant did not wish to obtain information pertaining to the aim of achieving a socially cohesive campus. It explained that a particular action of the meetings with Bill Rammell was that officers at the Senate were advised on what steps they should take if concerned about a change in a student's behaviour. This information is detailed within the extracts of the senate meetings which have been provided to the complainant.
27. The Commissioner was mindful of the Information Tribunal decision of Bromley v The Information Commissioner and The Environment Agency (EA/2006/0072) in which it was stated that “there can

seldom be absolute certainty that information relevant to a request does not remain undiscovered somewhere within a public authority's records". It was clarified in that case that the test to be applied as to whether or not information was held was not certainty but the balance of probabilities.

28. In the later case of *Ames v The Information Commissioner and The Cabinet Office* (EA/2007/0110), Mr Ames had requested information about the September 2002 "Iraq's Weapons of Mass Destruction" dossier. The Tribunal said that the Iraq dossier was "*...on any view an extremely important document and we would have expected, or hoped for, some audit trail revealing who had drafted what...*". However, it said that the evidence of the Cabinet Office was such that the Tribunal could nonetheless conclude that they did not "*...think that it is so inherently unlikely that there is no such audit trail that we would be forced to conclude that there is one...*"
29. Having considered the response of the University and the previous Tribunal decisions highlighted at paragraphs 28 and 29 above, the Commissioner considers that on the balance of probabilities there is no further information held other than that which had been disclosed to the complainant as detailed at paragraph 14. Therefore the Commissioner considers that the University complied with section 1(1)(a) and (b) of the Act.

Section 10

30. Section 10(1) of the Act requires that a public authority must comply with section 1(1)(a) and (b) promptly and in any event not later than the twentieth working day following the date of receipt of the request.
31. As the University did not confirm all of the information it held relevant to the scope of the request, nor did it disclose that information within 20 working days, the Commissioner considers that it breached section 10(1) of the Act.

The Decision

32. The Commissioner's decision is the University complied with section 1(1)(a) and (b) of the Act.
33. The Commissioner has decided that the University did not comply with the requirements of section 10(1) of the Act, as it did not fully respond to the complainant's request within twenty working days.

Steps Required

34. The Commissioner requires no steps to be taken.

Right of Appeal

35. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

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

Dated the 30th day of March 2009

Signed

**David Smith
Deputy Commissioner**

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

General Right of Access

Section 1(1) provides that -

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

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) 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”.”

Time for Compliance

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 –

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

- (a) prescribe different days in relation to different cases, and
- (b) confer a discretion on the Commissioner.”

Section 10(6) provides that –

“In this section –

“the date of receipt” means –

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

(b) 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.”