

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 March 2012

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

Decision (including any steps ordered)

1. The complainant requested the ethnic minority data of applicants for a diploma course offered by the University of Cambridge's Institute of Continuing Education from 1999 to 2004. The University stated that it did not retain the data and was unable to fulfil the complainant's request.
2. The Commissioner's decision is that the University of Cambridge has correctly stated that it does not hold the data.

Request and response

3. On 12 July 2011, the complainant wrote to the University of Cambridge and requested the following:

"Please could you provide the full list of all applicants from ethnic minorities who applied for Diploma in Notarial Practice ('DiNP') and were awarded the DiNP in due course?"

4. The University of Cambridge responded on 8 August 2011. It stated that:

"The Institute of Continuing Education does not retain ethnic minority data on candidates who applied for the Diploma in Notarial Practice and therefore the University is unable to provide this information."

5. On 16 August 2011, the complainant requested an internal review. In doing so he asserted that it was a statutory function of the University to send the information to the Higher Education Statistics Agency.
6. Following an internal review the University of Cambridge wrote to the complainant on 12 September 2011. It stated that it did not hold the information in any form, and whilst they did record ethnicity on their application materials, these forms (for the specified time period) were not held and the information had not been stored on their database.

Scope of the case

7. The complainant contacted the Commissioner to complain about the way his request for information had been handled, as he was certain that the University of Cambridge held the information he had requested. He also considered the University of Cambridge to be breaching his human rights, and referred to Article 3 of the Human Rights Act 1998.
8. The Commissioner does not consider the allegations of human rights breaches to be within the remit of his investigation, as this is the responsibility of the Equality and Human Rights Commission.
9. Therefore, the scope of the Commissioner's investigation was to determine whether the University of Cambridge held the requested information.

Reasons for decision

10. Section 1(1) of Freedom of Information Act 2000 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."

11. The effect of section 1(1)(a) and (b) is that a public authority is under a duty to confirm to a requestor whether or not it holds the requested information, and if it does, to provide it to the requestor unless it can rely on one of the Act's exemptions.

12. In determining whether a public authority holds requested information, the Commissioner makes enquires that will satisfy the civil standard of proof. That is, on the balance of probabilities, whether the public authority holds the requested information.
13. In deciding where the balance of probabilities lies, the Commissioner questioned the University of Cambridge as to whether the way it would handle ethnic minority data and the procedures it had in place for recording this information. He also considered any other information or explanation offered by the University of Cambridge which was relevant to the complaint.
14. In its response, the University of Cambridge outlined its procedures when dealing with application forms that contain ethnic minority data. It stated that:

"these application forms were destroyed routinely in each case at or before the time of the candidates' completion of the course (in the case of applicants accepted on to the course) or within a short period following rejection (in the case of applicants who were not accepted).

...we aim in this regard to adhere to sector best practice as disseminated by the Joint Information System Committee (JISC), including compliance with the fifth data protection principle [personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes]."

15. The University of Cambridge also provided details about its submissions to the Higher Education Statistics Agency (HESA). It stated that the HESA does not receive information about rejected candidates, and they would not be able to decompile information about accepted candidates to the course-specific detail that the complainant requested.
16. The Commissioner wrote to the HESA, and they confirmed that they receive and therefore hold information by qualification, not by specific courses.
17. Having considered the above, the Commissioner accepts that the University, on the balance of probabilities, does not hold the information that would answer the complainant's request.

Right of appeal

18. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

19. 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.
20. 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

Alexander Ganotis
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SK9 5AF