

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 July 2015

Public Authority: University of Exeter
Address: Northcote House
The Queen's Drive
Exeter
EX4 4QJ

Decision (including any steps ordered)

1. The complainant has requested information from the University of Exeter ("the University") relating to an individuals' attendance at the University and information relating to the year and county the individual was born in.
2. The Commissioner's decision is that the University has correctly applied section 40(2) of the FOIA to withhold the information sought in the request.
3. The Commissioner requires the University to take no steps.

Request and response

4. On 16 February 2015 the complainant wrote to the University and requested information in the following terms:
 1. *Is it recorded at the 'University of Exeter' that a [redacted name] was a student who attained a 'BA Hons History'?*
 2. *If, the answer to 1) is 'yes', what were the years when the [redacted name] was studying at the University of Exeter and in what year did he attain a BA Hons History*
 3. *If the answer to 1) is 'yes' was the [redacted name] born in 1963 in the county of Warwickshire*

5. The University responded on 12 March 2015 and applied section 40 of the FOIA to the request.
6. Following an internal review, the University upheld its previous decision.

Scope of the case

7. The complainant contacted the Commissioner on 6 May 2015 to complain about the way her request for information had been handled.
8. She specifically disputed the University's application of section 40(2) of the FOIA to the request.
9. The Commissioner has therefore had to consider whether the University was correct to apply section 40(2) of the FOIA to the request.

Reasons for decision

10. Section 40(2) of the FOIA specifies that the personal information of a third party must not be disclosed if to do so would contravene any of the data protection principles. The first principle of the Data Protection Act 1998 (the "DPA") states that personal data must be processed fairly and lawfully.
11. 'Personal data' is defined under section 1(1) of the DPA as data which relates to a living individual who can be identified from that data, or from that data and other information which is in the possession of the data controller or is likely to come into the possession of the data controller.
12. The withheld information consists of information relating to an individual's attendance at a particular University and the year and county he was born in.
13. The Commissioner is satisfied that information relating to an individual's attendance at a University including the years he attended, the year he was born and the county in which he was born relates to living individuals who may be identified from that data. The requested information therefore constitutes personal data as defined in section 1 of the DPA.

Would complying with section 1(1)(b) contravene the first data protection principle?

14. The first principle of the DPA states that personal data must be processed fairly and lawfully.
15. In considering whether it would be unfair to provide the requested names and whether this would therefore contravene the requirements of the first data protection principle, the Commissioner has taken the following factors into account:
 - the consequences of disclosure;
 - the data subjects' reasonable expectations of what would happen to their personal data; and
 - the balance between the rights and freedoms of the data subjects and the legitimate interests of the public.

Reasonable expectations

16. The Commissioner acknowledges that there is a reasonable expectation that information relating to an individual's attendance at a University would not be disclosed to the public in response to an information request.
17. Further to this, the data subject would have no reasonable expectation that information relating to the year he was born and the county he was born in would be disclosed by a public authority to the public in response to an information request.

Consequences of disclosure

18. The Commissioner considers that as disclosure of the requested information would be contrary to expectations and therefore unfair, such disclosure may cause some distress to the individual concerned.

Balancing the rights and freedoms of the data subject with the legitimate interests in disclosure

19. The Commissioner considers that the public's legitimate interests must be weighed against the prejudices to the rights, freedoms and legitimate interest of the individual concerned. The Commissioner has considered whether there is a legitimate interest in the public (as opposed to the private interests of the complainant) accessing the withheld information.
20. The Commissioner acknowledges that the requested information appears to be of interest to the complainant. However the Commissioner is of the

view that there is very little legitimate public interest in the information that has been requested.

21. On the basis that the data subject would hold reasonable expectation that this personal data would not be disclosed, and that disclosure despite that expectation would result in distress, combined with the absence of a legitimate public interest that is strong enough to make disclosure necessary, the Commissioner finds that disclosure would be unfair and in breach of the first data protection principle.
22. The Commissioner's overall conclusion is, therefore, that the exemption provided by section 40(2) of the FOIA is engaged and the University was not obliged to disclose this information.

Right of appeal

23. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

24. 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.
25. 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
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SK9 5AF