

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 18 May 2016

Public Authority: University of Southampton
Address: University Road
Southampton
SO17 1BJ

Decision (including any steps ordered)

1. The complainant has requested the university to disclose the training material used to train a particular therapist. Initially, the university refused to disclose this information citing section 43 of the FOIA.
2. However, during the Commissioner's investigation the university decided to disclose the requested information to the complainant and withdraw its previous reliance on section 43 of the FOIA.
3. The Commissioner has reviewed how the requested was handled and he has recorded a breach of section 10 of the FOIA in this case. Overall, however, he requires no further action to be taken.

Request and response

4. On 24 March 2015, the complainant wrote to the university and requested information in the following terms:

"I am seeking all notes used and held by the trainer/facilitator who train and teach the therapists – All the training for a year."
5. As the complainant received no response, she sent a further request for the above information to the university. This was received by the university on 31 July 2015.
6. The university wrote to the complainant on 16 October 2015 to seek clarification. It stated that it considered the request potentially encompassed a lot of information and therefore section 12 of the FOIA

may apply. The university asked the complainant if it was possible for her to be more specific about the information she requires.

7. The complainant responded by email on 17 October and by letter on 24 October 2015. She stated that she raised a complaint with an NHS trust in relation to a particular therapist who conducted a telephone interview. She confirmed that she required:

"...all notes used by the CBT trainer/facilitator to train the cognitive behaviour therapists."

The complainant commented that she did not believe it would take in excess of 18 hours to comply with her request, as the therapists are only trained for a year.

8. The university responded on 9 November 2015. It stated that it considered the requested information was exempt from disclosure under section 43 of the FOIA.
9. The complainant requested an internal review on 10 November 2015.
10. The university carried out an internal review and notified the complainant of its findings on 1 February 2016. It stated that it upheld its previous decision to refuse to disclose the requested information under section 43 of the FOIA.

Scope of the case

11. Although the complainant was already in contact with the Commissioner, this particular complaint was accepted for full investigation on 10 February 2016 following the completion of the university's internal review. Specifically, the complainant was concerned about the university's poor handling of her request and its decision to withhold the requested information under section 43 of the FOIA.
12. Throughout the Commissioner's investigation it has been his understanding (and the university) that the complainant required the training materials used to train the particular therapist she made a complaint against. Towards the end of the investigation, the university decided to withdraw its application of section 43 of the FOIA and disclose the requested information to the complainant.
13. The Commissioner contacted the complainant to let her know of the university's latest position and confirmed in writing and during a telephone call exactly what information she would now receive. Following this, the complainant contacted the Commissioner to say that

on reflection she now considers more up to date training material would be more relevant.

14. As the university and the Commissioner understood that the complainant required the specific material that was used to trained the named therapist and this interpretation of the request was not questioned until after the complainant was advised that the university was now willing to disclose this information, the Commissioner considers any request for more up to date material constitutes a new request. The Commissioner has informed the complainant that any new request would have to be made to the university in the first instance and cannot be considered within this investigation.
15. As the university has now disclosed the requested information, the Commissioner will now limit the remainder of this notice to any procedural breaches of the FOIA.

Reasons for decision

16. The university confirmed that it received the complainant's information requests on 24 March and 31 July 2015 yet failed to issue a response in accordance with section 10 of the FOIA until 9 November 2015; almost nine months later.
17. Section 10 of the FOIA clearly states that a public authority must respond to a request within 20 working days. As the university failed to do so, the Commissioner has found the university in breach of section 10 of the FOIA in this case.

Other matters

18. The Commissioner also notes that the university failed to carry out an internal review in a timely manner. The university received the complainant's request for internal review on 10 November 2015 but again failed to inform the complainant of the outcome of this process until 1 February 2016; almost three months later.
19. The Section 45 Code of Practice advises public authorities to offer an internal review in line with its own internal complaints procedure. It advises public authorities to carry out an internal review within 20 working days of receipt and certainly no later than 40 working days. It is expected that 40 working days is only required in complex and voluminous cases, which this request was not.

20. The Commissioner would strongly recommend the university review its internal procedures to ensure that all requests (whether the initial response or an internal review) are responded to on time in future.
21. The Commissioner would like to remind the university that he routinely monitors the performance of public authorities and their compliance with the legislation. Records of procedural breaches are retained to assist the Commissioner with this process and further remedial work may be required in the future should any patterns of non-compliance emerge.

Right of appeal

22. 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

23. 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.
24. 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

Mrs Samantha Coward
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF