

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 06 March 2019

Public Authority: The Governing body of University College London

Address: Gower Street
London, WC1E 6BT

Decision (including any steps ordered)

1. The complainant has requested information about Communications and Marketing (CAM). The University College London (the University) says it is not obliged to comply with the request under section 12(1) of the FOIA, as it would exceed the appropriate cost and time limit to do so.
2. The Commissioner's decision is that the University is not obliged to comply with the request under section 12(1) and is satisfied that the University met its obligation under section 16 to offer advice and assistance. The Commissioner does not require the public authority to take any steps.

Request and response

3. There has been considerable correspondence on this case which the Commissioner has summarised below. On 6 June 2018 the complainant made the following requests for information under the Data Protection Act (DPA) and FOIA:

'Please provide me with the following information and copy documentation:

1. All emails, voicemails, text messages and other electronic communications containing my personal data that have been sent or received by any of the following persons at any time since 1 June 2016:

- [11 redacted names]*
- any member of UCL's HR team ("HR"); and*
- any member of UCL's senior management team ("SMT")*

2. All other documents and records (written or digital) containing my personal data that have been created or worked on by any of the persons mentioned in paragraph 1 above at any time since 1 June 2016.

3. All information contained on my personnel file, except documents created before 1 January 2015, which have not since been updated or amended.

4. All UCL Communications and Marketing (CAM) Officevibe comments since introduction to the department in March 2017 to the date of this letter.

5. All email correspondence, meeting notes and documentation relating to the proposed re-structure of CAM that have been created, amended, received or sent by any member of SMT or any member of HR.

6. All documentation and email correspondence relating to 'Project Sekhmet'.

7. The number of posts that Rex Knight and/or SMT were initially informed would be likely to be made redundant as a result of the proposed re-structure and any updated figures given to him/them thereafter (please state dates the numbers were given, the person(s) to whom given and provide the corresponding numbers).

8. The date(s) on which Rex Knight and/or SMT (as the case may be) approved the proposed re-structure.

9. The job titles of the new employees that [redacted name A] has to date been authorised to recruit for CAM. Please divide into two categories: (a) those who have so far joined; and (b) those authorised by UCL but yet to join/be recruited.

10. If there are any outstanding requests for recruitment authority (i.e. UCL have yet to make a decision about whether to authorise [redacted name A] to recruit for further posts) please identify the post(s) that [redacted name A] has indicated she wishes to recruit for.

11. The number of members of staff who have joined CAM since 1 March 2017 who have worked with [redacted name A] in other organisations previously.

12. The number of members of staff who have worked in CAM at any time since 1 March 2017 but who are no longer employed by UCL ("Leavers").

13. The number of Leavers who have asserted to any member of HR or SMT (before or since leaving) that [redacted name A] has behaved in a bullying, aggressive or hostile way towards one or more members of staff.

14. The number of Leavers who have asserted to any member of HR or SMT (before or since leaving) that [redacted name A] has behaved in a discriminatory way towards one or more members of staff.

15. The number of Leavers who have asserted to any member of HR or SMT (before or since leaving) that [redacted name A] has treated one or more members of staff unfairly.

16. The number of current CAM staff who have asserted to any member of HR or SMT that [redacted name A] has behaved in a bullying, aggressive or hostile way towards one or more members of staff.

17. The number of current CAM staff who have asserted to any member of HR or SMT that [redacted name A] has behaved in a discriminatory way towards one or more members of staff.

18. The number of current CAM staff who have asserted to any member of HR or SMT that [redacted name A] has treated one or more members of staff unfairly.

19. All paperwork (including handwritten notes) relating to the exit interviews of former CAM colleagues [3 redacted names] (all of whom have consented to their disclosure in the witness statements submitted to HR in May 2018 by UCU Representative [redacted name]).

20. [Redacted name A] has written: "It was made abundantly clear to me through my recruitment and induction process, that transformational change was expected in comms". Please provide all information and comments that were given or made to [redacted name A] during her recruitment process in this regard (i.e. the change(s) that UCL were wishing to make to CAM), including extracts from relevant emails, interview notes and letters.

In addition, please may I have answers to the questions set out in the "Feedback" document that [2 redacted names] and I prepared and which was submitted to UCL in May 2018.'

4. On 4 July 2018 the University responded that the requests for personal data (Qs1-3) would be considered separately. It refused to provide the requested FOIA information (Qs 4-20) citing Section 12 of FOIA as it estimated that the cost of determining whether it held the information would exceed the cost threshold of £450. The University estimated that just answering the Qs 13-18 covered 140 staff and at 20 minutes per file would exceed the cost threshold. The University suggested it may be able to supply some information (such as the data within Qs 7, 8, 10 and 12) within the cost threshold.

5. On 6 July 2018 the complainant requested an internal review. She agreed to suspend her requests for Qs 4-6 only.
6. On 28 August 2018 the University responded to the refined FOIA request dated 6 July 2018. It refused to provide the requested FOIA information (Qs 7-20) citing Section 12 of FOIA. The University suggested it may be able to supply some information (such as the data within Qs 7, 8, 10 and 12) within the cost threshold.
7. On 30 August 2018 the University sent the outcome of its internal review on the original request dated 6 June and upheld its decision of 4 July 2018.

Scope of the case

8. On 1 August the complainant contacted the Information Commissioner to complain about the way the requests for information had been handled and after providing further information, the FOIA case was accepted on 5 November 2018.
9. The Commissioner notes that the requests for the complainant's personal information (Qs 1-3) have been dealt with separately under DPA and will not be considered here.
10. The Commissioner's investigation has focussed on whether the University correctly applied section 12 to the withheld information for Qs 4 - 20. She has also considered whether the University met its obligation to offer advice and assistance, under section 16.

Reasons for decision

Section 12 – cost exceeds the appropriate limit

11. Section 12 of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit to:
 - either comply with the request in its entirety, or
 - confirm or deny whether the requested information is held.
12. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request; 18 hours work in accordance with the appropriate limit of £450 set out above, which is the limit applicable to the University.

13. A public authority is only required to provide a reasonable estimate or breakdown of costs and in putting together its estimate it can take the following processes into consideration:
- determining whether it holds the information;
 - locating the information, or a document which may contain the information;
 - retrieving the information, or a document which may contain the information; and
 - extracting the information from a document containing it.
14. Where a public authority claims that section 12 of the FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of the FOIA.

Would the cost of compliance exceed the appropriate limit?

15. As is the practice in a case such as this, the Commissioner asked the University to confirm if the information is held, and if so, to provide a detailed estimate of the time/cost taken to provide the information falling within the scope of this request.
16. In its submission to the Commissioner the University noted the broad temporal scope of the request (16 months from March 2017) and the broad nature of the wording of the request. Searches would need to be made on both electronic systems and paper records and the number of staff involved in the requests is approximately 140 staff.
17. To create an estimate the University interviewed 2 (of the 140) members of staff for 3 of the 17 requests (Q4-6): a senior policy advisor in HR, and the Head of CAM. Both members of staff described the work needed and provided an estimate:
- i. 'individual email searches using search terms such as 're-structure' and 'restructure CAM', sorting exercise to locate relevant information [5/4 mins]*
 - ii. document searches on shared and local drives, including any BYOD devices or remotely held data stores, and sorting for relevant information [10/6 mins]*
 - iii. manual record searches among paperwork such as 'to do lists', daybooks, category 'e' data and diaries, held both at home or remotely, eg at home [15/0 mins]*
 - iv. other parts of the request could be dealt with centrally, eg a download of Offvibe comments [15mins]'*
18. The total estimate for the first 3 activities (i-iii) for one member of staff was 30 minutes and the other estimated 10 minutes. Therefore the

average time of 20 minutes x 140 staff = 46 hours. Even halving the estimated time to 10 minutes x 140 staff = 23 hours.

19. The Commissioner accepts that this is a reasonable estimate for 3 of the 17 requests. She notes that this is in addition to any centrally organised electronic searches (15 minutes for iv above),
20. Given the specific information requested, the numbers of staff involved and the broad nature of the wording of the requests, the Commissioner accepts that the University would take more than the 18 hour limit to respond to the requests as phrased. She is therefore satisfied that the University is correct to apply section 12(1) to the request.

Section 16(1) – The duty to provide advice and assistance

21. Section 16(1) of the FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice (the "code")¹ in providing advice and assistance, it will have complied with section 16(1).
22. The Commissioner notes that the University twice advised the complainant of the information that it would be able to provide within the cost limits. Therefore, the Commissioner is satisfied that the University complied with section 16.

¹ <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

Right of appeal

23. If 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

Pamela Clements
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