

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 July 2020

Public Authority: The Governing Body of the University of Oxford
Address: University Office
Wellington Square
Oxford
OX1 2JD

Decision (including any steps ordered)

1. The complainant has requested information regarding policies on providing student references and on the time taken to deal with student complaints. The Governing Body of the University of Oxford (the University) informed the complainant that it did not hold the requested information. During the course of the investigation it became apparent that the University did hold information relating to the time taken to deal with complaints, but as this was contained within the individual complaint files, the time it would take to extract the information would exceed the appropriate limit. The University therefore relied on section 12 to refuse this element of the request, which the complainant accepted. The Commissioner is satisfied that the University does not hold information about references, however its initial response to the request was late.
2. The Commissioner's decision is that the University breached section 10 of the FOIA by failing to inform the complainant that the information on references was not held within the statutory time limit. The University also breached section 17(5) by failing to inform the complainant of its application of section 12 to the information on student complaints within the statutory time limit.
3. The Commissioner does not require the public authority to take any further action in respect of this request.

Request and response

4. On 18 April 2019 the complainant made the following request for information under the FOIA for:

"I am writing to make a request under the terms of the Freedom of Information Act. Please provide the below information:

1) Any guidelines, policies, recommendations, or advice issued by the university concerning the provision of references to students by members of staff. Please provide this for the last three years. If there is any information falling within the terms of that description which was issued more than three years ago, but which the university viewed as continuing to apply at any point within the last three years or currently, then please provide that information as well.

2) Any records kept, or reports or reviews produced, in relation to the time taken by the Proctors` Office to resolve student complaints over the last five years, especially any concerning the length of time between the receipt of stage two complaints and the completion of stage two of the student complaints procedure. If possible, please provide this data divided by the year and month in which each stage two complaint was received by the Proctors` Office."

5. The University responded on 22 May 2019 and informed the complainant that in respect of part 1 of the request the information was not held, and that in respect of part 2 that there were no reports or reviews held that would answer the question.
6. Although there was some initial confusion as to whether the complainant wished to challenge the University's response to both parts of the request, or just the first part, the University conducted an internal review. On 19 November 2019 the University upheld its position that it did not hold the information on student references and on the 5 December 2019 the University upheld its position that it did not hold the information on the time taken to resolve complaints.

Scope of the case

7. The complainant contacted the Commissioner on 30 November 2019 to complain about the way his request for information had been handled. This was just before the University had completed its review of the second part of the request. At this stage the complainant's main concern was that the University had denied holding the information sought in both parts of the request.

8. During the course of the investigation the complainant was provided with a more detailed explanation of the searches that had been conducted to locate the information requested in part one of the request (i.e. for information on student references). The Commissioner also went back to the University and asked it to carry out further searches of a particular business area that the complainant had identified as potentially holding information on references. Once these additional searches were conducted and no information found, the complainant accepted that the information was not held. However he remained concerned over the length of time that the University had taken to respond to this part of his request.
9. In respect of part two of the request, during the Commissioner's investigation, the University accepted that although at the time of the request it had not already produced reports detailing the length of time it had taken to handle student complaints, the information could be extracted from the individual complaint files and that therefore the information was held. The Commissioner relayed the University's explanation of the process involved in extracting that information and the time that it would take to the complainant. In light of this explanation the complainant accepted that part two of the request could be refused under section 12 of the FOIA. Briefly, section 12 provides that a public authority can refuse a request if the cost of locating and retrieving the information would exceed a prescribed cost limit. For public authorities such as the University the cost limit is £450, which equates to 18 hours of officer time at £25 per hour.
10. Although the complainant accepted extracting the requested information would exceed this limit, he remained dissatisfied over the length of time it took the University to correctly apply section 12.
11. Therefore the Commissioner considers scope of the case is whether the University failed to meet the statutory time limits when dealing with each part of the request.

Reasons for decision

Section 10 – time for compliance

12. Under section 1(1)(a) of the FOIA upon the receipt of an information request a public authority is obliged to inform the person making the request whether it holds the information.
13. Section 10 of the FOIA states that the public authority must comply with section 1(1)(a) promptly and in any event not later than the twentieth working day following its receipt of the request.

14. The request was made on 18 April 2019. The University correctly confirmed that the information was not held. However the confirmation was not provided until 22 May 2019.
15. When calculating the twentieth working day following the receipt of the request the Commissioner has taken account of three bank holidays that occurred in that period, Good Friday on 19 April 2019, Easter Monday on 22 April 2019 and Early May Bank Holiday on 6 May 2019. Therefore the first working day following the request's receipt on 18 April would have been Tuesday 23 April 2019. The twentieth working day after then, allowing for the Early May Bank Holiday would be the 21 May 2019.
16. In light of the above the Commissioner finds that the University breached section 10 of the FOIA.

Section 17(5) - refusal notices citing section 12

17. Section 17(5) of the FOIA states that where a public authority is relying on a claim that section 12 applies to a request, it must give the person who made the request a notice to that effect within 20 working days of receiving the request.
18. Having recognised that it did hold the information sought in the second part of the request and the University ultimately went on to rely on section 12 to refuse the request. However this was during the Commissioner's investigation and the complainant was only made aware of this development when the Commissioner updated him as to the progress of the investigation in June 2020. It follows that the University has failed to comply with its obligation to serve a notice in accordance with section 17(5) within 20 working days.
19. Although the Commissioner is not aware of the University having served such a notice in the intervening period, as the complainant is now aware of the position, the Commissioner does not see any value in requiring the University to do so.

Section 16 – advice and assistance

20. Where a public authority refuses a request under section 12 the Commissioner would expect it consider what advice and assistance it could provide to the person who had made the request in order that they could make a refined request which could be handled within the appropriate limit. The University has provided the Commissioner with detailed explanations of the process involved in extracting the statistics on the student complaints from the individual files. It has also indicated what information it believes could be provided within the appropriate. This has been relayed to the complainant by the Commissioner and she

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understands that the complainant is now in the process of making a fresh request for statistics based on a limited number of complaint files.

Right of appeal

21. 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@justice.gov.uk

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

22. 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.
23. 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

Rob Mechan
Senior Case Officer
Information Commissioner's Office
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Water Lane
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