

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 September 2020

Public Authority: University Council
Address: University of Manchester
Oxford Road
Manchester
M13 9PL

Decision (including any steps ordered)

1. The complainant has requested a variety of information from the University of Manchester relating to the appeal he made. The university responded providing a response to each question and access to some documentation. The complainant remained dissatisfied, as he felt the university had failed to respond to his request appropriately and had failed to provide a copy of all the recorded information it holds. He also complained about the delays he had suffered.
2. During the Commissioner's investigation further recorded information was identified and disclosed to the complainant on a number of occasions. The complainant is satisfied that this element of his complaint has been resolved. However, he remains dissatisfied with how the university has handled his request and the piecemeal disclosure of information.
3. The Commissioner's decision is that the university has breached sections 1 and 10 of the FOIA, by failing to respond to the request in 20 working days and by failing to disclose to the complainant information to which he is entitled on a number of occasions within 20 working days of his request. But as all recorded information has now been identified and disclosed to the complainant, the Commissioner does not require any further action to be taken.

Request and response

4. On 28 September 2018, the complainant wrote to the university and requested information in the following terms:

"I refer to your internal memo dated 15th September 2017 circulated to staff arising from the disposal of my appeal from the School Hearing.

You will remember you upheld my appeal on grounds of procedural irregularity and in your memo recommended that a review by SALC covering seven separate matters, which you detail, *'commences as soon as practicable'*.

Please:

- (1) state the date when the review commenced;
- (2) state the date when it concluded;
- (3) identify, by reference to their job titles, the members of SALC taking part in the review;
- (4) state, in relation to each of your seven enumerated points, the conclusions reached in the review process and the recommendations arising therefrom;
- (5) state in relation to each of those recommendations whether they have been actioned and the date(s) on which such action was taken;

You also say in this memorandum that, as part of the review, SALC should look to the Faculty of Humanities to assist in developing templates and staff training.

Please:

- (6) state whether the Faculty of Humanities has assisted in developing templates and, if so, supply copies of such templates;
- (7) state whether the Faculty of Humanities has assisted in developing staff training and, if so, supply copies of the training material so generated and describe the training introduced, the regularity with which it occurs, the fora in which it takes place and the number of members of staff who have attended such training since it was introduced;

You say that consideration should be given as to *"who occupies the role of School Officer"* [paras 27-29 AMP] and what is meant by *"who may speak on your behalf"* [para 36 AMP], both of which matters arose in the context of my appeals.

Please:

- (8) state the conclusions arising from these two considerations;
- (9) state whether, and if so in what way, AMP has been revised;

You say that, given that I was not advised by the University of my right of appeal, the School should revisit cases heard in semester two and the re-sit period of 2016/17 where students were not informed of their right of appeal and inform those students of their rights.

Please

- (10) state whether such revisiting took place and, if so, when it took place;
- (11) state the number of cases found where students were not advised of their right of appeal;
- (12) state when those students were advised of their right of appeal;
- (13) state the number of students who consequently exercised their right of appeal;
- (14) explain why your recommendation did not go back to an earlier period;

You say that my case [*the THM appeal*] will be reported to the Student Conduct & Discipline Committee [SCDC] for it to oversee the revisiting of disciplinary cases heard in semester two and the re-sit period of 2016/17 and suggest any further action.

Please:

- (15) state whether the SCDC oversaw such revisiting;
- (16) state whether the SCDC suggested any further action and, if so, what that action was.

Finally, please:

- (17) supply copies of all correspondence, memoranda, and minutes arising from the above review (with redactions as appropriate to satisfy DPA requirements).
5. As the complainant received no response, he referred the matter to the Commissioner on 3 May 2019 (the complainant has stated that he referred the matter to the Commissioner in November 2018 and February 2019 but was later advised that the referral had been unsuccessful due to the size of the emails. The referral of 3 May 2019 is the first the Commissioner received).
 6. The Commissioner wrote to the university on 30 May 2019 and requested it to respond to the complainant's request in accordance with the FOIA in 10 working days.

7. The university responded on 16 June 2019, providing an answer to each question and providing access to certain documentation.
8. The complainant requested an internal review on 2 July 2019. He stated that he remained dissatisfied with the university's handling of questions 6,7,10,14 and 15.
9. The university carried out an internal review and notified the complainant of its findings on 23 July 2019. It acknowledged that it had failed to respond to the request in 20 working days of receipt and had therefore breached section 10 of the FOIA. But other than that, it informed the complainant that it had dealt with the request in accordance with the requirements of the FOIA. It referred to section 14 of the FOIA and informed the complainant that it may consider applying this exemption if further requests are made relating to this subject matter.

Scope of the case

10. The complainant states that he first contacted the Commissioner in December 2018 and then later in February 2019. The Commissioner does not dispute this although she has no record of these referrals, which seems to be the result of the size of the referrals being incompatible for her systems. The first referral the Commissioner received was the referral on 3 May 2019. At this time the complaint was that the university had not responded to the request. This was later resolved following the Commissioner's intervention and the university issued its response and then its internal review response. The complainant then referred the matter back to the Commissioner on 13 October 2019, as he remained dissatisfied with the university's handling of his request. By this time the request had been addressed and considered again via the internal review process, so the complaint was accepted for full investigation.
11. The complainant's main concern was that the university had failed to respond to his request in full and to disclose all the recorded information it holds. He also raised concerns over the delays incurred and the time it has taken the university to comply with the FOIA.
12. During the Commissioner's investigation, further recorded information was identified and disclosed to the complainant on a number of occasions. This was the result of the complainant probing further and suggesting to the university that further recorded information must be held and where. This element of the complaint was however finally resolved over a number of months and the complainant then accepted that he had received all the recorded information the university holds

(with the exception of any personal data relating to him, which he is aware would be exempt under section 40(1) of the FOIA and potentially available to him under the Data Protection Act 2018).

13. The complainant however requested that the matter is resolved by way of a decision notice to record all procedural breaches of the FOIA and the university's overall handling of the request. This is what the remainder of this notice will address.
14. The complainant also said that he would agree to the closure of his complaint if the university produces a copy of the revised Regulation XVII (Conduct & Discipline of Students) stated to be due to be finalised 'in early 2019' in its response. The Commissioner cannot compel the university to disclose this information; as this did not form part of the complainant's original request. It is outside the scope of this investigation. If the complainant requires a copy of this information he will need to make a new request to the university for it.

Reasons for decision

15. Section 10 of the FOIA requires a public authority to respond to a request as promptly as possible and in any event no later than 20 working days from receipt. The complainant's request was made on 28 August 2018, yet the university took until 14 June 2019 to issue its response and this was as a result of the Commissioner's initial intervention. This is clearly a breach of section 10 of the FOIA.
16. The university also failed to disclose to the complainant information to which he is entitled within 20 working days of receipt the request. Both when it initially responded and during the Commissioner's investigation when it identified on a number occasions that it did hold further recorded information. This is also a breach a section 10 and section 1 of the FOIA.
17. The Commissioner has made a formal record of these breaches. But as all recorded information held has now been identified and disclosed, she requires no further action to be taken.

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: 0870 739 5836

Email: grc@justice.gov.uk

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

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

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