

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: **2 September 2021**

Public Authority: The Governing Body of City, University of London

The Governing Body of City, University of London

Address: **Northampton Square
London
EC1V 0HB**

Decision (including any steps ordered)

1. The complainant has requested City, University of London (City) to disclose details of any and all awards made by City in any higher education framework other than FHEQ (Frameworks for Higher Education Qualifications). City answered some of the questions but for the remainder advised the complainant that it does not hold the requested information.
2. The Commissioner's decision is that on the balance of probabilities City does not hold the requested information. She has however found City in breach of section 10 of the FOIA, as it failed to provide a response to all elements of the request within 20 working days of receipt.
3. The Commissioner does not require any further action to be taken.

Request and response

4. On 22 June 2020, the complainant wrote to City and requested information in the following terms:

“Ofqual Register: Organisational Registration of City

1. City’s Recognition Number on this Register (as an Awarding Organisation or otherwise) and its date of registration.

Ofqual Register of Regulated Qualifications: Awards made by City

2. Details of any and all such awards with their Qualification Numbers, Levels, Sector Subject Areas and dates of registration.

Awards made by City other than under FHEQ

3. Details of any and all awards made by City in any higher education framework other than FHEQ (Frameworks for Higher Education Qualifications). For the avoidance of doubt, this is to include any awards made by City under RQF (Regulated Qualifications Framework)
4. External and internal authority, such as Senate Regulations, that authorise City to make awards other than by FHEQ.
5. The number of such non-FHEQ awards made (i.e. number of ‘graduates’ per award) in each academic year from 2016/17 to 2019/20, i.e.:

[table detailing how the complainant would like to information presented has been redacted]

Explanation of City’s Use of “He Level” in its Published Documentation

6. Explanation and authority (to include Senate Regulations and other sources) of this phrase, used in certain Programme Specifications and otherwise, including which legal and regulatory framework (FHEQ, RQF or other) that City means by this phrase.”
5. City responded on 21 July 2020. In respect of question one, it confirmed that City is not on the Ofqual Register for the relevant period. For question two, it gave a ‘not applicable’ response. For questions three, four and five, City confirmed that it does not hold this information centrally and it therefore has to check with each of City’s Schools. It advised the complainant that it would respond to these elements of the request in due course and as soon as it has

received the information. Regarding question six, City provide a link to its framework document.

6. The complainant raised concerns over City's response to questions three, four and five the same day. He then sent further emails chasing City's response to these elements of his request on 31 July, 6 and 12 August 2020.
7. City issued a further response on 20 August 2020. In relation to questions two and five, City confirmed that it does not hold the requested information. For question four, City provide links to the requested information.
8. The complainant requested an internal review on 21 August 2020. He stated that for questions 3 and 5 the response should include a number even if this is zero. Regarding question four, the complainant stated that City's response seemed to be contrary to the Regulatory Framework for High Education. He therefore requested a 'proper' response to these questions.
9. As he received no response, he chased City on 21 September 2020.
10. City carried out an internal review and notified the complainant of its findings on 28 September 2020. For questions three and five, it stated that the FOIA requires it to state that the information is not held if indeed it is not and this is what it has done. For question four, City confirmed that it has power granted pursuant to its Charter to confer degrees and other education awards of City. It argued that it has already provided the complainant with information relating to its Charter which confirms this.

Scope of the case

11. The complainant contacted the Commissioner on 3 October 2020 to complain about the way his request for information had been handled. He disagrees with City's response to questions three, four and five of his request and believes it holds the requested information.
12. The Commissioner considers the scope of her investigation to be to consider whether on the balance of probabilities City holds the requested information outlined in questions three, four and five of the request and whether there has been any procedural breaches of the FOIA.

Reasons for decision

Is the requested information held?

13. The Commissioner asked City to reconsider questions three, four and five of the complainant's request in light of the concerns the complainant had raised and following the production of a transcript he provided, which he believes demonstrates without doubt that City has issued awards under non FHEQ frameworks.
14. City maintains its position that it does not hold the requested information outlined in questions three, four and five of the request. It stated that no such recorded information is held because City does not award its degrees or other awards under non FHEQ frameworks. Its awards are made pursuant to its Royal Charter. It addressed the transcript the complainant provided and advised that this is the complainant's own transcript for his award. This transcript incorrectly refers to NQF Level 7. City confirmed that it has explained this to the complainant and advised that it is an error and it should refer to FHEQ Level 7. On a number of occasions it has offered to amend the complainant's transcript accordingly and sent him a PDF version of the corrected transcript for his approval under cover of an email dated 16 August 2020.
15. City believes the legal position is straightforward and different to that represented by the complainant in his communications to it. It explains that City was founded in 1894 as the Northampton Institute. It was created as a University by way of its Royal Charter in 1966. This Charter has subsequently been updated in 2006 and 2016 on recommendation of the Privy Council. On 1 September 2016 City joined the federation of HE Providers that constitute the University of London. City is registered with the Office of Students (OfS) as registered HE Provider 10001478. The OfS register confirms that City has degree awarding powers pursuant to Royal Charter.
16. City explained further that pursuant to its Royal Charter it has the power, *inter alia*, to provide programmes of study or instruction; to prescribe and administer examinations and other forms of assessment; and to confer degrees and City's autonomy to determine the qualifications which it awards, the programmes it

offers and the curriculum and assessment for those programmes is clearly recognised by the QAA.

17. It went on to say that City's power to award degrees is pursuant to its Charter. In particular clause 5(a)(v) of that Charter clearly states that City is lawfully empowered to "confer degrees and other education awards of City". In addition, at clause 5(a)(vi) City is also "eligible pursuant to the Statutes of the University of London, to confer degrees of the University of London". City is also entitled to award joint degrees with its institutions and withdraw any award by City.
18. City also advised that it is also responsible for the setting and maintaining of the academic standards of its awards, having regard to the requirements of any professional, statutory or regulatory body where a particular programme is accredited by any such body, i.e. the Bar Standards Board in the case of the LLM in Bar Professional Training. Under its Royal Charter, City's Senate has delegated authority for the enhancement of academic quality and assurance of academic standards and has enacted Senate Regulations in this regard and it is those Regulations that govern how programmes of study are approved and assessed. It stated that any exceptions to the Regulations in respect of a particular programme of study must be approved by Senate and set out in the relevant Programme Specification. City confirmed that the complainant has been provided with copies of the Programme Specification for the LLM in Bar Professional Training and with detailed explanations of the exceptions from the standard Senate Regulations in relation to the assessment and classification of awards made in respect of that programme.
19. City explained further that, as a degree awarding body, in designing and delivering its awards, it is required to deliver courses that meet the academic standards as they are described in the FHEQ. These include the threshold levels that have been agreed across the UK for the minimum acceptable level of achievement that a student has to demonstrate to be eligible for an academic qualification awarded by a higher education provider.
20. The FHEQ is the national qualification framework for higher education qualification awarded by degree awarding bodies. The RQF (which has replaced the NQF) is the equivalent national qualification for awards made by non-degree awarding bodies, including GCSE's, A-Levels, City & Guilds awards and so on. It confirmed that the entry levels four to eight of the RQF compare with the corresponding levels of the FHEQ. Therefore, the qualification threshold recognised under both FHEQ and under RQF for a course that is at Master's level or

equivalent is Level 7. The requirements of the FHEQ are set out in Part A of the QAA's UK Quality Code for Higher Educations 2013-2018.

21. City argued that the Programme Specification documentation for its LLM in Bar Professional Training is clear that it is designed and approved as a Master's level degree programme at Level 7. It believes it is the recognition of the LLM as a Level 7 programme that is important. For the avoidance of doubt, it stated that it has confirmed that any reference in the Programme Specification documentation to "HE Level 7" should be read as being "FHEQ Level 7". It stated again that the reference made in the complainant's own transcript was an administrative error.
22. City argued further that it is not the qualifications framework which determines a HE Provider's right to award or confer degrees or other qualifications. It is there to assist with regulating and maintaining consistent quality and standards for UK awards and it therefore requires awarding bodies to ensure that the content of their awards and the manner in which they are assessed are consistent with the FHEQ. The UK Quality Code of Higher Education provides that: "UK degree- awarding bodies are required to use the relevant frameworks in setting and maintaining academic standards". When awarding qualifications, they are expected to ensure that the requirements of the framework are met.
23. City commented that this is not a vires point. It is a matter for the QAA to assess whether the institution has the appropriate procedures in place to ensure this standard, which it does through its periodic reviews. The QAA does not review individual awards and in fact expressly acknowledges that "UK degree awarding bodies award their own qualifications; these are not awarded by the state. This autonomy means that degree awarding bodies are responsible for setting and maintaining the academic standards and quality of their qualification". City confirmed that degree awarding bodies are subject to regular quality assurance in respect of their compliance with the Quality Code and City is no exception.
24. It maintains that the LLM is indisputably represented to be a degree. A "Masters" is a Masters "degree" and that is very commonly understood. The LLM is a "Masters in Law" and so is therefore a degree (consistent with the Senate Regulations). As has been previously explained to the complainant, the programme was in fact taught and assessed at FHEQ level 7 and the complainant's LLM (Master (degree) in law) was awarded pursuant to City's Charter. It is for these reasons that City has not made, and therefore does not hold any information in relation to any awards "in any higher

education framework other than FHEQ (Frameworks for Higher Education Qualifications)”, including “any awards made by City under RQF (Regulation Qualifications Framework)”. It does not make its awards in or under FHEQ or RQF but makes its awards under its Royal Charter.

25. The complainant strongly believes that City does hold the requested information and this is the only probable response that should be given, considering the evidence he believes he holds. He stated that it is highly probable that it is not just his own documents solely affected by the administrative error City has described. He is aware of other individuals that have similar documentation that refers to “NQF Level”. He questions how probable it is that a university issue thousands of transcripts that refer to the wrong framework over a period of years based on an administrative error rather than have (and he consider it is a more likely possibility) made defective awards. He also commented that City was provided with his transcript during the FOIA process but did not reply.
26. The complainant has provided a letter dated 29 January 2020 which also expressly states that it had made both postgraduate diploma and LLM awards under RQF and quotes from this letter “At City, all modules... are taught and assessed at level 7 of the Regulation Qualifications Framework” not FHEQ. The complainant confirmed that City issued this letter to him when it was pointed out to it that NQF has not existed since 2008 so it should not have been on a transcript on 2018. The complainant believes City has been making awards under frameworks other than FHEQ by its own admission; not just evidenced by the transcripts but further evidenced by its own formal letter to try and explain away the fact that NQF has not existed since 2008. He said that City cannot lawfully make awards under RQF but admits that it has and as such it must hold records of these awards and therefore the requested information outlined in questions three, four and five of his request.
27. The Commissioner put the complainant’s additional arguments and evidence to City and asked it to provide its further submissions.
28. In response City stated that the complainant has been in dispute with it since 2018 over the grant of his award. It believes it has fully addressed the complainant’s request and explained in ample detail why it does not hold the requested information.
29. Addressing the complainant’s statement that he considers it is more probable than not that City has been making awards under non FHEQ frameworks and has therefore been issuing defective degrees, City confirmed that it has fully explained several times that the

complainant's degree and other degrees have been awarded under its Royal Charter and taught to the applicable FHEQ standard. It has not made defective awards and this matter is currently under consideration by the Office of the Independent Adjudicator.

30. With regards to the complainant's concerns that City did not address the transcript he provided during the FOIA process, City responded that in its view it responded properly to the complainant's request and internal review request and has fully explained the position to him and in particular why it does not hold the requested information. It pointed out that the complainant, prior to making this information request, complained to City about the reference to NQF on his transcript. City had therefore already addressed this matter in separate correspondence between City and the complainant in which the error in the transcript was explained.
31. In respect of the letter dated 29 January 2020, City advised again that this has been addressed in correspondence with the complainant outside of his FOIA request. In particular it has been made clear to the complainant that although there was an error in the terminology used in the transcript and letter, the award was in fact delivered in accordance with FHEQ higher education qualification framework and it has offered to amend the reference to FHEQ.
32. It stated again and reinforced its position that City does not hold the information requested as City's awards have properly been made by City under its Royal Charter, in accordance with the applicable FHEQ higher education framework and not under any other higher education qualifications framework.
33. The complainant raised three final points in support of his case. He referred to the entry of the LLM in Bar Professional Training within the Student Finance England's database, certificates being issued that do not use the words "degree of" prior to the award name and the use of the classification of "commendation". City advised that these points have no bearing on or relevance to the complainant's information request.
34. There is quite clearly an ongoing dispute between the complainant and City over his award and others and whether they have been issued under frameworks other than FHEQ. The Commissioner is only concerned with City's obligations under FOIA and whether these have been met, in particular whether City holds the requested information or not, based on the civil standard of the balance of probabilities.

35. City has explained the reference in the complainant's transcript and letter of January 2020 to NQF and RQF has already addressed and how the transcript and letter quoted the incorrect terminology in error. It has offered to correct this and to provide the complainant with a revised transcript. It strongly maintains that the award was delivered in accordance with the FHEQ higher education qualification framework and the award was made pursuant to its Royal Charter. It has explained that it is not the qualification framework which determines a HE Provider's right to award or confer degrees or other qualifications. It is there to assist with regulating and maintaining consistent quality and standards for the UK awards and it requires awarding bodies to ensure that the content of their awards and the manner in which they are assessed are consistent with that FHEQ framework.
36. The Commissioner has only seen the transcript and letter the complainant has provided. Although the complainant has stated that there are more (possibly thousands) transcripts that have been issued quoting a framework other than FHEQ, the Commissioner has not seen these or been provided with further evidence to demonstrate this is correct. In any event, the Commissioner does not consider that this would alter her view on whether City holds information of the description specified in the complainant's request. This is because City is adamant that the awards were taught to the applicable FHEQ standard and it is not the qualifications framework which determines its right to award or confer degrees or other qualifications because it is its Royal Charter that provides this right. This would still be the information City considers it holds based on the framework it considers it adheres to and the Charter in place; not what the complainant is requesting.
37. Section 1 of the FOIA requires a public authority to confirm whether or not any information is held falling within the scope of a request for information. It therefore requires a public authority to confirm one of two things; that it holds information falling within the scope of a request (and either provide it or otherwise state why it is exempt from disclosure) or that it does not hold any information. City has complied with its obligations under FOIA by stating that it does not hold the requested information. There is no requirement for City to have to state the number zero or otherwise.
38. For the above reasons, the Commissioner is satisfied that on the balance of probabilities City does not hold the requested information and that it has complied with its duties under section 1 of the FOIA by stating that it does not.

Procedural matters

39. Section 10 of the FOIA requires a public authority to respond to a request promptly and in any event no later than 20 working days from receipt. The Commissioner notes that City did not provide a substantive response to three elements of the request until 20 August 2020. It therefore failed to respond to the request in full within 20 working days of receipt and breached section 10 of the FOIA.

Other matters

40. The section 45 code of practice recommends that public authorities respond to requests for an internal review within 20 working days of receipt and certainly no later than 40 working days from receipt. The additional 20 working days should only be required in particularly complex or voluminous requests.
41. In this case the complainant requested an internal review on 21 August 2020. City responded on 28 September 2020. It took more than 20 working days and there appeared no obvious need for additional time considering the request, City's position and prior correspondence between City and the complainant relating to this matter. The Commissioner would therefore like to remind City of the requirements of the code and the importance of carrying out timely and effective internal reviews.

Right of appeal

42. 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

43. 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.
44. 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
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