

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 6 July 2023

**Public Authority:** University of East London  
**Address:** University Way  
London  
E16 2RD

#### **Decision (including any steps ordered)**

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1. The complainant requested from the University of East London ("the University") information about placement providers and how these placements were operating. The University disclosed some information, but it refused to confirm or deny whether it held information about the delivery of placements, citing section 12(2) (Cost of compliance exceeds appropriate limit) of FOIA.
2. The Commissioner's decision is that the University was entitled to apply section 12(2) of FOIA and he finds no breach of section 16.
3. The Commissioner does not require the University to take any further steps.

#### **Request and response**

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4. On 8 November 2021, the complainant wrote to the University and requested information in the following terms:

"...please provide me with

- information about numbers of Placement Providers which are currently offering face-to-face placements, remote placements and mixture of face-to-face and remote placement, to Social Work students studying at UEL. Please also provide me with information about the number of students each placement provider is currently hosting. I do not require providers' name or anyone's personal details. However,

please differentiate between providers in statutory and volunteer sector.”

5. The University responded on 14 October 2022. It provided information about the providers and the number of students being hosted. It also said “...at present all our placements are intended to be face-to-face with aspects of work once on placement conducted online such as meetings with colleagues”.
6. The complainant requested an internal review, asking for the number of fully remote placements, the number of placements fully on site and the number of placements which offered both ways of working.
7. Following an internal review, the University wrote to the complainant on 6 March 2023. It acknowledged that it had not provided sufficient clarity about whether any of its providers offered remote or hybrid placements. It followed this up on 20 March 2023, stating:

“Whilst placements were on a face to face basis, there may have been instances where elements were delivered remotely as per each of the individual providers policies in place at the time. We do not hold any information as to how often that may have happened as this would be determined by the provider and agreed locally.”

### **Scope of the case**

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8. The complainant contacted the Commissioner on 21 February 2023 to complain about the way their request for information had been handled. Following receipt of the internal review, they contacted the Commissioner again to explain they remained unhappy with the response.
9. During the Commissioner’s investigation, the University advised that it wanted to rely on section 12(2) of FOIA when refusing to comply with the request.
10. Following the combined cases of the Home Office v Information Commissioner (GIA/2098/2010) and DEFRA v Information Commissioner (GIA/1694/2010) in the Upper Tribunal, a public authority is able to claim a new exemption or exception either before the Commissioner or the First-tier Tribunal and both must consider any such new claims.
11. The Commissioner therefore considers the scope of this decision notice is to determine if the University was entitled to apply section 12(2) of

FOIA to neither confirm nor deny whether it held information breaking down how placements were delivered. The Commissioner has also considered whether it met its obligation to offer advice and assistance, under section 16 of FOIA.

## Reasons for decision

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### Section 12(2)

12. Section 12(2) of FOIA provides that a public authority is not obliged to confirm or deny whether the information that has been requested is held if it estimates that to do so would incur costs in excess of the "appropriate limit", as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Fees Regulations").
13. In other words, if the cost of establishing whether information of the description specified in the request is held would be excessive, the public authority is not required to do so.
14. The "appropriate limit" is set in the Fees Regulations at £600 for central government, legislative bodies, and the armed forces and at £450 for all other public authorities. Therefore, the "appropriate limit" for the University is £450.
15. The Fees Regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, effectively imposing a time limit of 18 hours for the University to deal with this request.
16. Where section 12(2) is relied upon, Regulation 4(3) of the Fees Regulations states that a public authority can only take into account the cost it reasonably expects to incur in carrying out the following activity:
  - determining whether the information is held.
17. Section 12(2) requires a public authority to estimate the cost of confirmation or denial, rather than to formulate an exact calculation. However, it must be a reasonable estimate. In accordance with the First-Tier Tribunal in the case of "Randall v Information Commissioner & Medicines and Healthcare Products Regulatory Agency EA/2007/0004", the Commissioner considers that any estimate must be **"sensible, realistic and supported by cogent evidence"**.

18. The task for the Commissioner here is to determine whether the cost estimate by the University was reasonable. If it was, then section 12(2) was engaged and the University was not obliged to confirm or deny whether the requested information was held.

**Would confirmation or denial exceed the appropriate limit?**

19. As is the practice in a case in which the public authority has cited the cost limit under section 12(2) of FOIA, the Commissioner asked the University to provide a more detailed estimate of the time and cost of determining whether the requested information was held.
20. In an attempt to address the complainant's request, the University advised that "Whilst placements were on a face to face basis, there may have been instances where elements were delivered remotely", however, the work involved in determining if it holds any additional information relating to placements being delivered remotely, face to face or in a hybrid setting, would exceed the cost limit.
21. The University said it used its Office 365 search function to search staff emails containing both the words 'placement' and 'social work'. It explained it used broad search terms in order to locate information relating to in-person placements, hybrid placements and remote placements. It explained it further narrowed the search to cover the time period of 2020 to the present date.
22. The University said that compiling the requested information would not be as simple as going through each email for a reference of the mode of delivery. It explained that the vast majority of emails mentioned placements in general, therefore each email would need to be read by a member of staff to determine whether it contained relevant information regarding the placement delivery and then to ensure this had not changed at a later date.
23. The University said roughly 10,000 emails had been identified and each email would need to be reviewed to determine if it was relevant to the request. The University estimated this would take one minute per email. This would equate to 10,000 minutes or 166 hours, which exceeds the 18 hours cost limit by a considerable amount.
24. Having considered the University's submissions, the Commissioner's conclusion is that it has estimated reasonably that to confirm or deny whether it holds any information within the scope of the complainant's request would exceed the appropriate cost limit. The University was

therefore entitled to apply section 12(2) of FOIA to the complainant's request.

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

25. Section 16(1) of FOIA provides that a public authority should give advice and assistance to any person making an information request, where it would be reasonable to do so.
26. However, the Commissioner recognises that where a request is far in excess of the limit, it may not be practical to provide any useful advice. The Commissioner is satisfied in this case that due to the unstructured way in which any relevant information might be held, there was no easy way for the University to suggest how the complainant could refine the request such that it could be dealt with, within the cost limit. He therefore finds there was no failure to comply with section 16 of FOIA.

## Right of appeal

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27. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

28. 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.
29. 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 Bracegirdle**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**