

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 13 February 2006

Name of Public Authority: The Governing Body
University of the Arts, London

Address of Public Authority: 65 Davies Street
London
W1K 5DA

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint from the complainant, which states that on 17th January 2005 the following information was requested from the University of the Arts London (the "University") under section 1 of the Freedom of Information Act 2000 (the "Act"):

"The Chaney Report and related documents." The Chaney Report is about the processes and procedures designed to ensure fair treatment on the BA (Hons) Product Development for the Fashion Industries course at the London College of Fashion and the application of such procedures in relation to an individual student.

It is alleged that:-

1. Despite repeated requests and payment of a fee the complainant had not received a copy of the document(s) nor any lawful justification under section 17(1) of the Act for non-disclosure.
2. The University did not direct the complainant to any internal complaints procedure under section 17(7) of the Act.

The Commissioner's Decision

Under section 50(1) of the Act, except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the complainant and the public authority.

The Commissioner's decision is as follows:

1. The University responded to the complainant on the 14th February 2005 stating that "We do not accept that the Chaney Report is disclosable [sic] under the Act", 20 working days after the request was received. However the University failed to specify any exemption or give a reason why the information might be considered exempt. In doing so the University did not deal with the complainant's request in accordance with the requirements of Part 1 of the Act in that it has failed to comply with sections 17(1)(a), (b) and (c) of the Act. Section 17 states;

"A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which:-

- (a) states the fact;
- (b) specifies the exemption in question; and
- (c) states (if that would not otherwise be apparent) why the exemption applies."

2. The response to the complainant on the 14th February 2005 contained no notification of whether the University had a procedure for dealing with complaints about the handling of the request and if it did have, what it was, neither did it inform the complainant of the right to complain to the Commissioner. By failing to inform the complainant of these matters, the University has not dealt with the complainant's request in accordance with the requirements of Part I of the Act in that it has failed to comply with section 17(7). Section 17(7) of the Act states;

Reference: FS50068400.

“A notice under subsection (1), (3) or (5) must:-

- (a) contain the particulars of any procedure provided by the public authority for dealing with complaints about the handling of requests for information or state that the authority does not provide such a procedure; and
- (b) contain particulars of the right conferred by section 50.”

Action Required

After extensive and protracted correspondence between the Commissioner’s office and the University, the University has now released the requested information to the complainant. In view of these matters the Commissioner hereby gives notice that in exercise of his powers under section 50 of the Act he does not require any remedial steps to be taken by the University. However, he has indicated to the university that he expects a more conscientious approach to compliance with the Act’s requirements in the future.

Right of Appeal

Either party has the right to appeal against this Decision Notice to the Information Tribunal (the “Tribunal”). Information about the appeals process can be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 6000 877

Fax: 0116 249 4253

Email: informationtribunal@dca.gsi.gov.uk

Reference: FS50068400.

Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 13th day of February 2006

Signed:

Graham Smith
Deputy Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF