

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 August 2012

Public Authority: The Governing body of University of East Anglia
Address: Norwich Research Park
Norwich
NR4 7TJ

Decision (including any steps ordered)

1. The complainant has requested any communications between the University of East Anglia (UEA) and Norfolk Police that resulted in Norfolk Police being given the names of people who made FOI requests to the university. UEA said that the requested information was not held.
2. The Commissioner's decision is that UEA correctly said that the requested information was not held under the Freedom of Information Act 2000 (FOIA).
3. The Commissioner requires no steps to be taken.

Request and response

4. On 29 December 2011, the complainant wrote to UEA and requested information in the following terms:

"Please supply any communications between the university and Norfolk Police that resulted in Norfolk Police being given the names of people who made FOI requests to the University. Redacted names of individuals acceptable."
5. UEA responded on 30 January 2012. It stated that the requested information was not held in accordance with section 1(1)(a) FOIA.
6. Following an internal review UEA wrote to the complainant on 23 February 2012. It confirmed that the requested information was not held.

Scope of the case

7. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
8. The Commissioner has considered whether or not UEA was correct when it said that the information was not held under section 1(1)(a) FOIA.

Reasons for decision

9. Section 1(1)(a) of FOIA states that:

“Any person making a request for information to a public authority is entitled – to be informed in writing by the public authority whether it holds information of the description specified in the request,”

10. In this case UEA confirmed to the complainant that the requested information was not held.
11. UEA explained to the Commissioner, that in order to enable it to come to this conclusion, searches were carried out on both the print and digital sources that would have been likely to hold the requested information. It said that the Information Policy and Compliance Manager searched his Outlook mailbox for any email that would contain the requested information within folders containing other material relating to the police investigation. It confirmed that the search covered all relevant archive folders. It said that the file containing section 29(3) Data Protection Act (DPA) notices was also searched. Section 29 DPA is an exemption that can allow an organisation to share personal information where the disclosure is for the prevention or detection of crime, the apprehension or prosecution of offenders or the assessment or collection of any tax or duty or of any imposition of a similar nature, and complying with the normal provisions of the DPA would be likely to prejudice one of these purposes. Under this exemption, if an organisation has received a request from a third party for information constituting personal data, they may be able to release the data to the third party without the knowledge or consent of the data subject if the organisation which processes the data is satisfied that the exemption applies. Organisations may receive requests for information under this exemption from the police. This is the file which UEA were referring to above.
12. It went on to explain that the Assistant Director Strategy, Policy and Compliance searched the digital and paper files relating to the investigation of the illegal access to a server located within the Climate Research Unit. The search for the paper records extended to both those

currently held by the Assistant Director, and those which may have been held by the ICT Policy Manager who was in post at the time of the incident (and who has since retired from UEA). It said that the search for electronic records included all those currently held relating to the security incident first logged in 2009.

13. UEA explained that the search covered both local and networked resources. All relevant sources for the requested information controlled by the Information Policy and Compliance Manager are networked. It said the search covered both local and networked resources. It said that no information related to this request is held locally on personal computers used by key officials. It confirmed all electronic records are held on networked resources.
14. UEA said that the terms used for searching emails included 'police' in both the 'To' and 'From' fields to ensure that all correspondence with the Police was checked for references to matters relevant to the information request. It did however suggest that it is likely that if the information were held it would be held initially as manual records. Although it did explain that some manual records are scanned to make digital pdf documents.
15. UEA accepted that it did have information that indicated clearly that a section 29(3) notice was received by UEA from the Norfolk Constabulary and that this information was passed to the ICT Policy Manager. It explained that the ICT Policy Manager was the contact point for UEA with the police relating to the investigation. It said that this notice was disposed of at the time the ICT Policy Manager retired from UEA in July 2011. Prior to retirement the ICT Policy Manager confirmed an appropriate retention period with the Human Resources department for material relating to security investigations. Their advice, which is in line with JISC guidance (Joint Information and Systems Committee), was that material older than 1 year after last action on a case should be destroyed. It said however that it did not have a record of the document's destruction.
16. It said that whilst there is a strategic level records management policy in existence and UEA is currently in the process of establishing approved records retention schedules, there was no specific records retention schedule or file plan in place for this type of information at the time the record was created or disposed of.
17. UEA explained that it did not believe that the section 29(3) notice was in digital format at any time. It said that any other emails relating to this matter would have been in the possession of the ICT Policy Manager who was the main point of contact with the Norfolk Constabulary on this matter. The ICT Director also had contact and dealings with the Police,

but the maintenance of the files relating to the incident was the responsibility of the ICT Policy Manager. The ICT Director has confirmed that he holds no information relating to the information request.

18. It finally explained that any information relating to the passing of personal data to any authority under section 29 conditions should be retained as long as is necessary to show evidence that the information was passed to the other authority properly. It said that JISC's recommended practice for the sector is that "Records documenting the handling of requests for access to personal information held by an institution under the Data Protection Act 1998 (c.29)" should be retained for a period of "Last action on request +1 year" although it does further note that the Act "...does not prescribe a retention period for these records." It goes on to add, "A longer retention period may be appropriate for records documenting the handling of requests which resulted in complaints or appeals."
19. The University said that upon the basis of the searches set out above it had concluded that no information was held relevant to the request.
20. In this case UEA has explained that it has conducted extensive searches for the requested information and it was unable to locate this. The guidance it had followed was to retain information relating to security investigations for 1 year following the last action. It would appear that in July 2011 when the then ICT Policy Manager retired, UEA have explained that information which was held relevant to this request for information was destroyed in accordance with this guidance.
21. In order to conclude that information is not held by a public authority, the Commissioner must be satisfied that on the balance of probabilities the requested information is not held. In this case UEA has conducted searches and has provided a persuasive explanation as to why it considers any relevant information has now been destroyed based upon JISC guidance. The Commissioner therefore considers that on the balance of probabilities the requested information is not held by UEA.

Right of appeal

22. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

23. 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.
24. 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

Steve Wood
Head of Policy Delivery
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF