

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 August 2012

Public Authority: Sheffield Hallam University
Address: City Campus
Howard Street
Sheffield
S1 1WB

Decision (including any steps ordered)

1. The complainant has requested information relating to the charity known as Common Purpose. The University provided the complainant with information in response to the request however it made redactions under section 40(2) of the Freedom of Information Act 2000 (FOIA).
2. The Commissioner's decision is that the University correctly applied section 40(2) to make the redactions to most of the information provided. However the Commissioner does not consider that the University was correct to apply section 40(2) to the substance of a student quote.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The University should disclose the redacted student quote, however the name of the student who provided the quote should not be disclosed.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 16 August 2011, the complainant wrote to the University and requested information in the following terms:

"Could you please provide, for the past four years, copies of all invoices and associated communications, including emails, relating to the charity known as Common Purpose."
6. The University responded on 13 September 2011, it provided the requested information but made redactions under section 40(2) FOIA.
7. The University wrote to the complainant with the result of the internal review on 25 October 2011, it upheld the redactions made under section 40(2) FOIA.

Scope of the case

8. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
9. The Commissioner has considered whether the University was correct to make redactions under section 40(2) to the information it provided to the complainant.

Reasons for decision

10. Section 40(2) of the Act provides an exemption for information that constitutes the personal data of third parties:

"Any information to which a request for information relates is also exempt information if—

(a) it constitutes personal data which do not fall within subsection (1), and

(b) either the first or the second condition below is satisfied."

Section 40(3)(a)(i) of the Act states that:

"The first condition is-

- (a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of*

the information to a member of the public otherwise than under this Act would contravene-

- (i) any of the data protection principles, or*
- (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress),"*

11. In this case the University said that the data subjects could be split up into three categories depending on the nature of their involvement with the requested information. The first category was groups of staff who attended Common Purpose courses/events as part of their personal development, staff who have been involved in processing purchase orders and invoices and related administration and staff who had been involved in the organisation of Common Purposes courses for students and finally students.
12. The University explained that the redacted information consist of names of staff and lists of student attendees as well one quote from a student about their experiences.
13. The Commissioner considers that the staff names and lists of student attendees would be the personal data of those individuals. In terms of the student quote, the Commissioner considers that as long as student name is redacted which identifies them as the author of the quote, this information would not constitute personal data. The Commissioner therefore considers that section 40(2) was incorrectly applied to the substance of the quote.
14. Personal data is exempt if either of the conditions set out in sections 40(3) and 40(4) of the Act are met. The relevant condition in this case is at section 40(3)(a)(i) of the Act, where disclosure would breach any of the data protection principles. In this case the Commissioner has considered whether disclosure of the personal data would breach the first data protection principle, which states that "Personal data shall be processed fairly and lawfully". Furthermore at least one of the conditions in Schedule 2 should be met.
15. The Commissioner has considered the three categories of data subject described at paragraph 11 above separately below. In reaching a decision as to whether disclosure of the requested names would contravene the first data protection principle the Commissioner has considered the following: -

Names of staff who had attended Common Purpose courses/events as part of their personal development

Likely expectation of the data subject

16. The University explained that the information related the individuals' professional lives, however it said that the information relates to their participation in individual professional development rather than representing the University or discharging routine administrative duties.
17. The University explained that it does not routinely publish information about the development activities of individual members of staff. It said that information about personal development plans is usually only shared between the individual and their manager and the relevant HR staff. It confirmed that none of the staff concerned gave consent, however one said that if the University felt it was a legitimate disclosure then they would accept that position.
18. It also said that three of the four individuals who were still employed by the University at the time of the request, are employed at a Senior Staff Grade, however their roles are not public facing. The lower grade member of staff has a more externally facing role.
19. The Commissioner considers that although the relevant staff members are either at a senior grade or occupy an externally facing role, as the information relates to their professional development and is something which they considered would only be shared with their manager and HR, he does not consider that the data subjects would expect their names to be disclosed.

Would disclosure cause damage and distress to the data subject?

20. The University has explained that there is a campaign against Common Purpose which promotes conspiracy theories and publishes lists of names alongside these claims. The University provided the Commissioner with evidence of the relevant internet pages to demonstrate this. The University therefore concluded that disclosure of individuals' names could cause unwarranted harm to the data subjects.
21. The Commissioner considers that if the names were disclosed and then published on these campaign websites it would cause damage and distress to the data subjects.

The legitimate public interest

22. The University acknowledged that there is a legitimate interest in the public being able to scrutinise how public money is spent and to assess the value for money of the goods and services purchased by the University as a recipient of public money.

23. However the University considers that it has gone some way to meet this legitimate public interest as it has disclosed the requested information with only surnames redacted. It considers that disclosing the surnames of the data subjects was not necessary to meet this legitimate public interest.
24. The Commissioner considers that disclosure of the surnames of the data subjects would not add anything further to the legitimate public interest in this case. Taking into account the reasonable expectations of the data subjects and the possible damage and distress disclosure may cause, he considers that section 40(2) was correctly engaged in relation to this information.

Staff who had been involved in processing purchase orders and invoices and related administration and staff who had been involved in the organisation of Common Purpose courses for students

Likely expectation of the data subject

25. The University explained that the information related to the individuals' public rather than private lives. It said that whilst a small number of these staff were employed on the senior staff grade, most of the individuals were employed on much lower grades. The University considers that none of the staff would have expected their names to be disclosed under these circumstances. It said that their involvement with Common Purpose was incidental and related solely to the standard processing of financial transactions or course administration.
26. The Commissioner considers that as the data subjects were involved in an administrative role it does not appear to be public facing. He also considers that as the majority were on lower staff grades they would not have expected their names to be disclosed in this context.

Would disclosure cause damage and distress to the data subject?

27. Please refer to paragraphs 19 and 20 above.

The legitimate public interest

28. See paragraphs 21 to 23 above.

Students

Likely expectation of the data subject

29. In relation to the names of students who have attended Common Purpose courses, the University has argued that students attend the University in a private capacity as individual learners. It said that students were asked to apply for places on the Common Purpose

courses as supplementary to their course on a competitive basis for their personal and career development.

30. The University said that it routinely asks students for consent for certain types of processing, however it does not routinely ask students about this type of processing. The University confirmed that it has a strict non-disclosure policy for student data.
31. The Commissioner does not consider that students would expect their names to be disclosed into the public domain as having attended specific courses. This is because students attend University in a private capacity and this is not something the University has suggested would be disclosed.

Would disclosure cause damage and distress to the data subject?

32. The University has explained that on other occasions it has dealt with a number of student cases where the student in question has had legitimate reasons for not wanting to be located by particular individuals and would be at risk of serious physical and/or emotional harm should they be located by certain external third parties.
33. Whilst the University has not provided a specific example in this case the Commissioner does consider that disclosure of student names, when they are attending the University in a private capacity, may cause damage and distress to the data subject.

The legitimate public interest

34. The University acknowledged that there is a legitimate interest in the public being able to scrutinise how public money is spent and to assess the value for money of the goods and services purchased by the University as a recipient of public money.
35. The University explained that it has described to the complainant which groups of students undertook the course in question and does not consider that disclosure of individual students' names adds anything to the legitimate public interest.
36. Other than the redacted quote which the Commissioner does not consider to be personal data, he considers that section 40(2) was correctly applied to all of the other redacted information.

Right of appeal

37. 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

38. 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.
39. 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

**Pamela Clements
Group Manager, Complaints Resolution
Information Commissioner's Office
Wycliffe House
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SK9 5AF**