

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 18 July 2013

Public Authority: University of Ulster
Address: Cromore Road
Coleraine
BT52 1SA

Decision (including any steps ordered)

1. The complainant requested information relating to repairs and redecoration of student accommodation. The University of Ulster provided the requested information, but failed to comply with the statutory time limit set out at section 10(1) of the FOIA. The Commissioner does not require any further steps to be taken.

Request and response

2. On 31 October 2012, the complainant requested the following information from the University:

"Concerning the papers you sent me on 26 October 2012.

I would like you to send me "full records and inspection forms supporting that conclusion..."

For clarification and accuracy these "full records" and "inspection forms" must include the following documents, most of which I previously requested from the Accommodation Service, but never received.

- A) *A University Bank Account statement confirming the University paid for the painting of [specified accommodation].*
- B) *All receipts confirming purchase of all "replaced" items, and all bills for "repaired" items, including the date the fire extinguisher was "refilled", and who charged the University for "refilling" it.*
- C) *A University Bank Account statement confirming payment was made by the University for all replaced, repaired and refilled items,*

including the names of all who received these payments, and when the payments were made."

3. The University responded on 13 November 2012. It provided most of the requested information, but advised that it would "not be appropriate" to provide University bank account statements. The complainant requested an internal review on the same day.
4. Following the internal review the University wrote to the complainant on 19 November 2012. It provided some further information, and advised that the complainant could appeal to the University Visitor if he remained dissatisfied.

Scope of the case

5. On 20 November 2012 the complainant contacted the Commissioner to complain about the way his request for information had been handled.
6. On consideration of the correspondence it appeared to the Commissioner that the University had not handled the complainant's request under the FOIA. On 23 January 2013 the Commissioner asked the University to reconsider the request and provide a response compliant with the provisions of the FOIA.
7. The University conducted a further review of the request and communicated the outcome to the complainant on 6 March 2013. The outcome of the internal review was that the University provided further information to the complainant. The complainant queried the information provided with the University in further correspondence.
8. On 1 June 2013 the complainant advised the Commissioner that he remained dissatisfied with the way the University had handled his request. The complainant accepted that the University had now provided him with the requested information to the extent that it was held. The only withheld information was the bank statements, which the complainant accepted were exempt from disclosure. However the complainant remained concerned that the University had taken so long to deal with his request and asked that the Commissioner issue a decision notice.

Reasons for decision

Section 1: general right of access

Section 10: time for compliance

Section 17: refusal notice

9. Section 1(1)(a) of the FOIA requires that a public authority confirm or deny to the complainant that the requested information is held. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued. Section 10(1) requires that the public authority comply with section 1 promptly, and in any event no later than twenty working days after the date of receipt of the request.
10. In this case the University did respond to the complainant's correspondence, although it treated it as a routine enquiry rather than a request under the FOIA. The Commissioner has reminded the University that any written request for recorded information will fall under the FOIA and should be treated as such. This is particularly important if the public authority intends to withhold any information (such as the bank statements in this case).
11. The Commissioner finds that the University ought to have responded to the complainant's request within the time for compliance, ie no later than twenty working days following receipt of the requests. In this case the University did not provide an adequate response to the complainant until 6 March 2013. At this stage the University did provide the complainant with most of the information he had requested. However, as this was outside the time for compliance the Commissioner finds that the University failed to comply with section 1(1)(a), section 1(1)(b) and section 10(1) of the FOIA.
12. Section 17(1) of the FOIA states that if the authority wishes to rely on any exemption it must issue a refusal notice within the time for compliance. The refusal notice must state which exemption is being relied upon and why it applies. In the case of a qualified exemption the refusal notice must also state the authority's reasons for claiming that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest disclosing the information.
13. The Commissioner notes that the University refused to provide the complainant with copies of bank statements he had requested. The University explained to the complainant that disclosure would be likely to prejudice the University's commercial interests and that the public interest in disclosure did not outweigh these commercial interests. It

appears to the Commissioner that the University's arguments correspond to the exemption at section 43(2) of the FOIA, although the University failed to cite any exemption. In addition the University failed to explain the public interest test accurately. Information can only be withheld if the public interest in maintaining the exemption outweighs the public interest in disclosing the information, not the other way round.

14. In light of the above the Commissioner also finds that the refusal notice issued by the University failed to meet the requirements of section 17 of the FOIA. As the complainant has accepted that the University was entitled to withhold the bank statements the Commissioner has not considered this aspect of the University's response further. However the Commissioner would expect the University to bear in mind his findings and comments when responding to future requests.

Right of appeal

15. 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

16. 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.
17. 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

Alexander Ganotis
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