

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 25 October 2016

**Public Authority:** St Mary's University  
**Address:** Waldegrave Road  
Strawberry Hill  
Twickenham  
London  
TW1 4SX

#### Decision (including any steps ordered)

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1. The complainant has requested information from St Mary's University ("the University") relating to the salaries of the English Department for the period September 1970 – August 1980.
2. The Commissioner's decision is that the University does not hold the requested information.
3. The Commissioner requires the University to take no steps

#### Request and response

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4. On 12 June 2016, the complainant wrote to the University and requested information in the following terms:  
*Please provide full salary details of all staff in the English Department from 09/1970 until 08/1980.*
5. The University responded on 20 June 2016 and applied section 40 of the FOIA to the request.
6. Following an internal review the University wrote to the complainant on 7 September 2016. It reconsidered its handling of the request and determined that the information requested was not held.

## Scope of the case

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7. The complainant contacted the Commissioner on 26 September 2016 to complain about the way her request for information had been handled. She argued that the requested information would be held.
8. The Commissioner has had to consider whether the University holds the requested information.

## Reasons for decision

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

*"Any person making a request for information to a public authority is entitled: -*

*(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*

*(b) if that is the case, to have that information communicated to him".*

10. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the ICO, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.
11. In other words, in order to determine such complaints the ICO must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
12. The University stated that the requested data has not been retained by the University and it was therefore not held.
13. The University explained:

*"In accordance with the principles of the DPA we do not keep data for longer than is absolutely necessary and in line with our policies staff information is retained for 6 years".*
14. Without any evidence to the contrary, the Commissioner has decided that on the balance of probabilities, information relating to salaries of the English Department dating back over 30 years is not held by the University.

## Right of appeal

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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: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

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

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** .....

**Chris Hogan**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**