

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 October 2020

Public Authority: The Council of the University of Central Lancashire

Address: Adelphi Building
Fylde Road
Preston
PR1 2HE

Decision (including any steps ordered)

1. The complainant has requested meeting minutes and reports from the University of Central Lancashire ('the University'). The University released information within the scope of the request, withholding some under FOIA section 43 (commercial interests) and section 40 (personal data). The complainant is dissatisfied with procedural aspects of the University's handling of his request.
2. The Commissioner's decision is as follows:
 - The University breached section 10(1) and section 17(1) of the FOIA as it did not comply with section 1(1) or issue a refusal notice in respect of some of the requested information within the required timescale.
 - No breach of section 16(1) occurred as there was no requirement on the University to offer advice and assistance.
3. The Commissioner does not require the University to take any remedial steps.

Request and response

4. On 9 September 2019 the complainant wrote to the University and requested information in the following terms:

"I am writing to make a request for all the information to which I am entitled under the Freedom of Information Act 2000.

Please send me:

- 1. [University of Central Lancashire 2017, 2018, 2019 – University Student Recruitment Strategy Minutes]*
- 2. [University of Central Lancashire 2017, 2018, 2019 –Tactical Recruitment Group Minutes]*
- 3. [University of Central Lancashire 2017, 2018, 2019 –Recruitment Strategy Group Minutes]*
- 4. [University of Central Lancashire- School of Medicine- 2017, 2018, 2019 –Student Recruitment Strategy Minutes]*
- 5. Assurance Reports from the sub-committees of the Academic Board- 2017, 2018, 2019*
- 6. [University of Central Lancashire-School of Medicine-Assessment Sub-Committee- 2017, 2018, 2019 –BSc (Hons) Medical Science Foundation Assessment Strategy Minutes]"*

5. In correspondence dated 1 October 2019 the University responded – its reference FOI 1995. It withheld the information requested in parts 1 – 4 of the request (as it had interpreted part 1) under section 43 of the FOIA.
6. The University released information within the scope of part 5 and withheld other information under section 43. The University advised it did not hold information within the scope of part 6 of the request.
7. The complainant requested an internal review on 16 October 2019. He referred to the University's obligations under section 10, section 17 and section 16 of the FOIA with regard to its FOI 1995 response. With regard to the latter, the complainant considered that the University had had a duty to help him clarify part 1 of his request, if the University was not clear what was being requested. The complainant also submitted a refined request for: *"...information only relating to the student number targets for points 1-4."* The University logged this as a new request – FOI 2028 – and handled it separately.
8. In correspondence to the complainant dated 17 October 2019, the University acknowledged that it had not complied with section 10 and section 17 with regard to its FOI 1995 response. It explained that this

was due to staff absence. With regard to part 1 of the request and section 16, the University said that it had been able to make a reasonable interpretation of the request and had located the information it considered was relevant. As such, it had considered it was not necessary to help the complainant clarify what information he was seeking in that part. The University asked the complainant to indicate what advice and assistance he was seeking.

9. The University provided an internal review in correspondence dated 29 January 2020. It acknowledged that its response of 15 October 2019 had breached section 10(1) and section 17(1) of the FOIA, but the University did not agree that it had breached section 16(1).
10. The University wrote again to the complainant on 28 February 2020. It explained that it had misinterpreted one element of his request – part 6 - when it had advised him that it did not hold that information. The University acknowledged that it *did* hold relevant information and released this information to the complainant – School of Medicine Assessment Sub-Committee minutes, with personal data redacted.

Scope of the case

11. The complainant first contacted the Commissioner on 19 December 2019 to complain about the way his request for information had been handled.
12. Having liaised with the complainant, the Commissioner has focussed on the University's compliance with section 10(1), section 17(1) and section 16(1) of the FOIA.

Reasons for decision

Section 10 and section 17 – timeliness of response and refusal

13. Under section 1(1) of the FOIA anyone who requests information from a public authority is entitled (a) to be told whether the authority holds the information and (b) to have the information communicated to him or her if it is held and is not subject to an exemption.
14. Section 10(1) says that a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
15. In cases where a public authority is relying on a Part II exemption to refuse to disclose information (as in this case), under section 17(1) the

authority must issue a refusal notice within the time for complying with section 1(1).

16. The complainant submitted his request on 9 September 2019. The University sent its response on 15 October 2019 (although the correspondence had been incorrectly dated 1 October 2019). It communicated information to the complainant at this point (and communicated further information on 28 February 2020). In its internal review, the University acknowledged that it had breached section 10(1) in respect of the information it holds and which it released. The Commissioner also finds that the University breached section 10(1) of the FOIA.
17. The University's correspondence of 15 October 2019 also acted as a refusal notice with regard to the information it was withholding under the section 43 exemption. Again, in its internal review the University acknowledged that it had breached section 17(1). The University refused to release further information (which it withheld under section 40(2)) in its correspondence of 28 February 2020. As such, the Commissioner also finds that the University breached section 17(1) of the FOIA.

Section 16 – advice and assistance

18. Section 16(1) of the FOIA places a duty on a public authority to provide an applicant with advice and assistance so far as it would be reasonable to expect the authority to do so.
19. The University discussed section 16(1) in its internal review decision. It noted that when he had raised this section in his request for a review, it was in regard to the University's response to part 1 of his request. The University said that, in that response, it had indicated to the complainant how it had interpreted this part, giving him the opportunity to correct that interpretation if necessary. The University noted that the complainant had not made clear in his request for a review how he considered the University had failed to meet its section 16(1) duty or the nature of the advice and assistance he was expecting to receive. Finally, the University noted that, in its correspondence of 17 October 2019 it had offered the complainant a further opportunity to clarify what advice and assistance he required but that the complainant had not responded to that correspondence.
20. In its further correspondence to the complainant of 28 February 2020 the University explained why it had initially advised it did not hold information within the scope of part 6 of the request, which it subsequently acknowledged it did hold.

21. In correspondence to the Commissioner of 7 October 2020, the complainant has said that the University breached section 16(1) of the FOIA because, despite him providing evidence to the University that it held particular minutes he was seeking, the University had denied the minutes existed. These were the School of Medicine Assessment Sub-Committee minutes that the University had subsequently disclosed on 28 February 2020.
22. A public authority's duty to offer an applicant advice and assistance is discussed in the Freedom of Information Code of Practice¹. The Code advises that, broadly, this duty comes into play with regard to: clarifying a request; reducing the cost of complying with a request or transferring requests to another authority.
23. The University considered it had interpreted part 1 of the request correctly and so did not need to clarify it with the complainant – though it gave him the opportunity discuss this with the University.
24. The complainant subsequently advised the Commissioner that he considers that the University breached section 16(1) with regard to its response to part 6 of the request, rather than part 1. In its 28 February 2020 correspondence to the complainant the University explained that it *had* misinterpreted part 6. Again, the University explained that it had originally considered it had interpreted that part correctly and so had not considered it necessary to clarify it with the complainant.
25. On the face of it, the complainant's request was clear, and the Commissioner accepts that the University would have considered that it was not necessary to clarify any part of it with the complainant. Furthermore, the Commissioner considers that the University's subsequent communications with and explanations to the complainant about aspects of his request were satisfactory
26. Having considered the circumstances of this complaint and the guidance in the Code of Practice, the Commissioner cannot find that the University breached section 16(1) of the FOIA on this occasion as there was no requirement on it to offer advice and assistance. The University's misinterpretation of part 6 of the request did lead to a late release of the

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf

information requested in that part, however, and this has been discussed in the section 10 analysis.

Right of appeal

27. 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@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

28. 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.
29. 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
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